



US Army Corps
of Engineers
Kansas City District

**KANSAS CITY DISTRICT
CORPS OF ENGINEERS
and
TRI-COUNTY KANSAS DRAINAGE DISTRICT NO. 1**

**Public Law 84-99 of the Flood Control Act of 1944
Levee Rehabilitation – NEPA Review, Environmental
Assessment & Finding of No Significant Impact**

**TRI-COUNTY KANSAS DRAINAGE DISTRICT
NO. 1 – SECTIONS 2 and 3
NON-FEDERAL, ITEM 135A
LEVEE REHABILITATION PROJECT**

**Cross Creek – Kansas River
Shawnee County, Kansas**

AUGUST 2007



DEPARTMENT OF THE ARMY
KANSAS CITY DISTRICT, CORPS OF ENGINEERS
700 FEDERAL BUILDING
KANSAS CITY, MISSOURI 64106-2896

Finding of No Significant Impact

Tri-County Kansas Drainage District No. 1 – Sections 2 and 3 Levee Rehabilitation Project Shawnee County, Kansas

Project Summary

The U.S. Army Corps of Engineers, Kansas City District (CENWK), in cooperation with the project sponsor, Tri-County Kansas Drainage District No. 1, proposes to construct the Tri-County Kansas Drainage District No. 1, Sections 2 and 3, Levee Rehabilitation Project, under the authority of Public Law 84-99 of the Flood Control Act of 1944. Three alternatives were considered: (1) In-place repairs; (2) Landward levee setback; and (3) No action. The Corps has identified Alternative 2 – Landward Levee Setback as the recommended plan. The proposed project would involve the placement of earthen fill material in non-wetland agricultural crop fields adjacent to Cross Creek in order to construct landward levee setbacks for two sections of damaged agricultural levee. The proposed repair in levee Section 2 is located along the right descending bank (RDB) of Cross Creek, in Section 9, Township 11 south, Range 13 east, Shawnee County Kansas. The proposed repair in levee Section 3 is located along the left descending bank (LDB) of Cross Creek, in Section 10, Township 11 south, Range 13 east, Shawnee County Kansas.

Alternatives

Three alternatives were considered: (1) In-place repairs; (2) Landward levee setback (**RECOMMENDED PLAN**); and (3) No action.

Recommended Plan

Alternative 2 – Landward Levee Setback is the Corps' Recommended Plan.

In Tri-County Drainage District No. 1, Section 2 the recommended plan consists of repair of the lost foreshore area and intermittent riverside levee toe slope (sta. 319+60 to 319+85 and 320+60 to 320+90, with an approximate 790-linear-foot-long landward levee setback. The repair would require 8,100 cubic yards of earthen material obtained from the existing damaged levee section and nearby borrow areas. Construction areas would be seeded and mulched.

In Tri-County Drainage District No. 1, Section 3 the recommended plan consists of repair of the lost foreshore area and intermittent riverside levee toe slope (sta. 1+90 to 2+40 and 3+60 to 3+90, with an approximate 1,000-linear-foot-long landward levee setback. The recommended repair would require 10,300 cubic yards of earthen material obtained from the existing damaged levee section and nearby borrow areas. Construction areas would be seeded and mulched.

Summary of Environmental Impacts

As the repairs would be on alignments landward of the existing levees, the recommended plan Alternative 2 - Landward Levee Setback would require that the drainage district acquire additional real estate for the setback levee alignments and the setback reduces available agricultural cropland by approximately 4 acres total and in Section 2 requires the relocation/loss of one irrigation well. This irrigation well is currently located landward of the existing levee in Section 2 and after construction would be located riverward of the levee. Flood damage reduction level achieved by the recommended plan would be the same as with Alternative 1 and the original pre-flood levees. Alternative 2 would result in very minor improvement to floodway conveyance. The recommended plan would result in no impacts to any Federally-listed threatened or endangered species or their habitat. The recommended plan would result in no impacts to any properties listed, proposed for listing, eligible for listing, or potentially eligible for listing in the National Register of Historic Places. Areas of the existing levee sections damaged by flooding would be temporarily disturbed by the proposed construction activity. The adverse effects associated with the proposed project are long-term/minor associated with the loss of agricultural cropland, or short term/minor and related to project construction. These minor adverse effects and would be greatly offset by restoring the flood damage reduction capability, and its associated social and economic benefits, of the existing levee system. Alternative 2—Landward Levee Setback meets the project purpose and need of rehabilitating the flood damage reduction capability, and its associated social and economic benefits, of the existing levee system. Of the three (3) alternatives considered, Alternative 2—Landward Levee Setback is recommended because it has the least environmental impact, avoids impacts to the aquatic ecosystem, requires the least amount of earthen material to construct, does not require any rock fill for bank stabilization, had the lowest costs, and the highest cost/benefit ratio.

Mitigation Measures

The recommended plan will result in no impacts to mitigable resources as defined in USACE Planning regulations or under Section 404 of the Clean Water Act. Therefore, no mitigation measures are warranted or proposed.

Public Availability

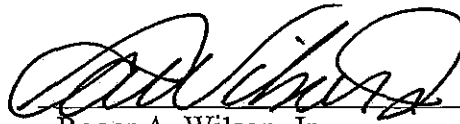
Prior to a decision on whether to prepare an Environmental Impact Statement, the proposed project was circulated to the public and resource agencies through a Public Notice, No.2007-616, dated June 5, 2007, with a thirty-day comment period ending on July 5, 2007. This notice contained a project description, along with information on the Corps' preliminary determination to prepare a Finding of No Significant Impact for the project. The notice was mailed to individuals/agencies/businesses listed on CENWK-Regulatory Branch's Shawnee County and State of Kansas mailing list. In addition the Public Notice was available for public/agency review and comment on the CENWK-Regulatory Branch's webpage. Levee rehabilitation

projects completed by the Corps under authority of Public Law 84-99 generally do not require the preparation of an Environmental Impact Statement. These projects typically result in long-term social and economic benefits and adverse environmental effects are typically minor/long-term and minor/short-term construction related. Minor long-term impacts associated with these projects are typically well outweighed by the overall long-term social and economic benefits of these projects. As described above, the recommended plan is consistent with this assessment of typical levee rehabilitation projects completed by the Corps under authority of Public Law 84-99 of the Flood Control Act of 1944.

Conclusion

After evaluating the anticipated environmental, economic, and social effects of the proposed activity, it is my determination that construction of the proposed Tri-County Kansas Drainage District No. 1, Sections 2 and 3, Levee Rehabilitation Project to restore two segments of earthen levee damaged by flooding, does not constitute a major Federal action that would significantly affect the quality of the human environment; therefore, preparation of an Environmental Impact Statement is not required.

Date: 9/4/07



Roger A. Wilson, Jr.
Colonel, Corps of Engineers
District Commander



DEPARTMENT OF THE ARMY
KANSAS CITY DISTRICT, CORPS OF ENGINEERS
700 FEDERAL BUILDING
KANSAS CITY, MISSOURI 64106-2896

EXECUTIVE SUMMARY

The U.S. Army Corps of Engineers, Kansas City District (CENWK), in cooperation with the project sponsor, Tri-County Kansas Drainage District No. 1, proposes to construct the Tri-County Kansas Levee Rehabilitation Project, under the authority of Public Law 84-99 of the Flood Control Act of 1944. The proposed project would involve the placement of earthen fill material in non-wetland agricultural crop fields adjacent to Cross Creek in order to construct setbacks for two sections of damaged agricultural levee.

The Tri-County Kansas Drainage District No. 1 – Section 2 consists of approximately 34,560 linear feet of earthen flood control works (FCW) located on the LDB of the Kansas River between river mile 105.6 and 102.7, LDB of Bourbonais Creek and RDB of Cross Creek near the town of Rossville, Shawnee County, Kansas. The FCW protects approximately 5,482 acres. In Section 2 the recommended plan consists of repair of the lost foreshore area and intermittent riverside levee toe slope (sta. 319+60 to 319+85 and 320+60 to 320+90, with an approximate 790-linear-foot-long landward levee setback. The repair would require 8,100 cubic yards of earthen material obtained from the existing damaged levee section and nearby borrow areas. Construction areas would be seeded and mulched. The proposed repair in Section 2 is located along the right descending bank (RDB) of Cross Creek, in Section 9, Township 11 south, Range 13 east, Shawnee County Kansas.

The Tri-County Kansas Drainage District No. 1 – Section 3 consists of approximately 33,040 linear feet of earthen FCW located on the LDB of the Kansas River between river mile 102.7 and 96.2, LDB of Cross Creek and RDB of Ensign Creek near the towns of Rossville and Silver Lake, Shawnee County, Kansas. The FCW protects approximately 4,009 acres. In Section 3 the recommended plan consists of repair of the lost foreshore area and intermittent riverside levee toe slope (sta. 1+90 to 2+40 and 3+60 to 3+90, with an approximate 1,000-linear-foot-long landward levee setback. The repair would require 10,300 cubic yards of earthen material obtained from the existing damaged levee section and nearby borrow areas. Construction areas would be seeded and mulched. The proposed repair in Section 3 is located along the left descending bank (LDB) of Cross Creek, in Section 10, Township 11 south, Range 13 east, Shawnee County Kansas.

The Corps circulated information about the project to the public and resource agencies through a Public Notice, No.2007-616, dated June 5, 2007, with a thirty-day comment period ending on July 5, 2007. Considering all information related to the project, no significant impacts to the human environment are expected to result from the proposed levee rehabilitation project. Based on a review of the information contained in this Environmental Assessment and of the comments received during the public interest review, the Corps has approved the attached Finding of No Significant Impact for the recommended plan.

Additional information concerning this project may be obtained from Mr. David Hoover, National Disaster Program Manager, Emergency Management Branch, Kansas City District - U.S. Army Corps of Engineers, by writing the above address, or by telephone at 816-389-3497.

**NEPA REVIEW
ENVIRONMENTAL ASSESSMENT
&
FINDING OF NO SIGNIFICANT IMPACT**

**PUBLIC LAW 84-99
TRI-COUNTY KANSAS DRAINAGE DISTRICT NO. 1 –
SECTION 2 AND 3
LEVEE REHABILITATION PROJECT
SHAWNEE COUNTY, KANSAS**

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&
FINDING OF NO SIGNIFICANT IMPACT**

**PUBLIC LAW 84-99
TRI-COUNTY KANSAS DRAINAGE DISTRICT NO. 1 –
SECTION 2 AND 3
LEVEE REHABILITATION PROJECT
SHAWNEE COUNTY, KANSAS**

Section 1: INTRODUCTION

This Environmental Assessment provides information that was developed during the National Environmental Policy Act (NEPA) public interest review of the proposed Public Law 84-99 Tri-County Kansas Levee Rehabilitation Project.

Section 2: AUTHORITY

The Kansas City District – U.S. Army Corps of Engineers (CENWK), in cooperation with the project sponsor, Tri-County Kansas Drainage District No. 1 proposes to construct the Tri-County Kansas Levee Rehabilitation Project under the authority of Public Law 84-99 of the Flood Control Act of 1944.

Section 3: PROJECT LOCATION

The Tri-County Kansas Drainage District No. 1 – Section 2 consists of approximately 34,560 linear feet of earthen flood control works (FCW) located on the LDB of the Kansas River between river mile 105.6 and 102.7, LDB of Bourbonais Creek and RDB of Cross Creek near the town of Rossville, Shawnee County, Kansas. The proposed repair in the Tri-County Kansas Drainage District No. 1 – Section 2 is located along the right descending bank (RDB) of Cross Creek, in Section 9, Township 11 south, Range 13 east, Shawnee County Kansas.

The Tri-County Kansas Drainage District No. 1 – Section 3 consists of approximately 33,040 linear feet of earthen FCW located on the LDB of the Kansas River between river mile 102.7 and 96.2, LDB of Cross Creek and RDB of Ensign Creek near the towns of Rossville and Silver Lake, Shawnee County, Kansas. The proposed repair in the Tri-County Kansas Drainage District No. 1 – Section 3 is located along the left descending bank (LDB) of Cross Creek, in Section 10, Township 11 south, Range 13 east, Shawnee County Kansas.

Section 4: EXISTING CONDITION

The Tri-County Kansas Drainage District No. 1 – Section 2 consists of approximately 34,560 linear feet of earthen flood control works (FCW) located on the LDB of the Kansas River

between river mile 105.6 and 102.7, LDB of Bourbonais Creek and RDB of Cross Creek near the town of Rossville, Shawnee County, Kansas. The FCW protects approximately 5,482 acres. As a result of the October 2005 flood event severe foreshore erosion occurred riverward of levee station 318+20 to 322+20 and the FCW suffered intermittent damage along the riverside levee toe slope from stations 319+60 to 319+85 and 320+60 to 320+90. The Tri-County Kansas Drainage District No. 1 - Section 2: The FCW protects approximately 5,482 acres, of which approximately 4,993 acres are cropland; one business, 17 residences, approximately 2.50 miles of asphalt surface County roads, approximately 8.00 miles of gravel surfaced County roads, approximately 4.00 miles of unimproved farm to market roads, numerous miles of overhead power lines and buried Southwestern Bell and County telephone cable, 6 barns, 16 machine sheds, 15 outbuildings, 23 irrigation systems and 2 grain bins.

The Tri-County Kansas Drainage District No. 1 - Section 3 consists of approximately 33,040 linear feet of earthen FCW located on the LDB of the Kansas River between river mile 102.7 and 96.2, LDB of Cross Creek and RDB of Ensign Creek near the towns of Rossville and Silver Lake, Shawnee County, Kansas. The FCW protects approximately 4,009 acres. As a result of the October 2005 flood event severe foreshore erosion occurred riverward of levee station 0+00 to 9+50 and the FCW suffered intermittent damage along the riverside levee toe slope from stations 1+90 to 2+40 and 3+60 to 3+90. The Tri-County Kansas Drainage District No. 1 - Section 3: The FCW protects approximately 4,009 acres, of which approximately 3,557 acres are cropland; 2 businesses, 20 residences (which include portions of the communities of Rossville and Silver Lake), approximately 3.25 miles of asphalt surface County roads, approximately 14.00 miles of gravel surfaced County roads, approximately 3.50 miles of unimproved farm to market roads, numerous miles of overhead power lines and buried Southwestern Bell and County telephone cable, 3 barns, 15 machine sheds, 17 outbuildings, 22 irrigation systems and 2 grain bins.

Section 5: PURPOSE & NEED FOR ACTION

Both levee sections were severely damaged during an October 2005 flood event. Prior to the October 2005 event these levees provided an approximately 10 year level of flood damage protection. In their current damaged state they are estimated to provide between a 2 and 5 year level of flood damage protection. The existing condition exposes all public and private infrastructure and agricultural croplands protected by the levee prior to the flood damage to a high level risk of future flooding. Failure to restore the flood damage reduction capability of the levee system would keep area residents livelihood and social well-being in turmoil, subject to the continuous threat of flooding until level of flood protection is restored. Failure to reconstruct the levee could adversely affect the tax base of the county and municipal governments and special districts, such as school districts. In addition, loss of jobs and potential losses in agricultural production on lands protected by the levee would also be incurred. The project purpose and need is to rehabilitate the damaged levees and restore the associated social and economic benefits.

Section 6: ALTERNATIVES

Three alternatives were considered. Two build alternatives (Alternative 1 - In-Place Repairs Alternative and Alternative 2 - Landward Levee Setback Alternative) and Alternative 3 - The "No Action" Alternative.

Alternative 1 – In-Place Repairs

In Section 2 the In-Place Repair Alternative would involve complete re-establishment of lost high bank/foreshore area and lost lower levee toe slope. The repair action would toe out into Cross Creek, which would require the placement of a stone toe trench revetment structure to provide stability and to prevent erosion to restored high bank/foreshore and levee embankment toe slope area.

In Section 3 the In-Place Repairs alternative would involve complete re-establishment of lost high bank/foreshore area and lost lower levee toe slope. The repair action would toe out into Cross Creek, which would require the placement of a stone toe trench revetment structure to provide stability and to prevent erosion to restored high bank/foreshore and levee embankment toe slope area.

Alternative 2 – Landward Levee Setback (Recommended Plan)

In Section 2 the recommended plan consists of repair of the lost foreshore area and intermittent riverside levee toe slope (sta. 319+60 to 319+85 and 320+60 to 320+90, with an approximate 790-linear-foot-long landward levee setback. The repair would require 8,100 cubic yards of earthen material obtained from the existing damaged levee section and nearby borrow areas. Construction areas would be seeded and mulched.

In Section 3 the recommended plan consists of repair of the lost foreshore area and intermittent riverside levee toe slope (sta. 1+90 to 2+40 and 3+60 to 3+90, with an approximate 1,000-linear-foot-long landward levee setback. The recommended repair would require 10,300 cubic yards of earthen material obtained from the existing damaged levee section and nearby borrow areas. Construction areas would be seeded and mulched.

Alternative 3 – “No Action” Alternative

The “No Action” Alternative would involve no construction and the levee would remain in its damaged condition.

Section 7: RECOMMENDED PLAN

The applicant has requested project authorization and funding from the U.S. Army Corps of Engineers under Public Law 84-99 of the Flood Control Act of 1944 for construction to repair two sections of levee damaged by high flows in an October 2005 flood event. Project costs under this program are borne 80% Federal and 20% applicant.

The recommended plan (Landward Levee Setback Alternative) for Section 2 consists of repair of the lost foreshore area and intermittent riverside levee toe slope (sta. 319+60 to 319+85 and 320+60 to 320+90, with an approximate 790-linear-foot-long landward levee setback. The repair would require 8,100 cubic yards of earthen material obtained from the existing damaged levee section and nearby borrow areas. Construction areas would be seeded and mulched.

The recommended plan (Landward Levee Setback Alternative) for Section 3 consists of repair of the lost foreshore area and intermittent riverside levee toe slope (sta. 1+90 to 2+40 and 3+60 to

3+90, with an approximate 1,000-linear-foot-long landward levee setback. The repair would require 10,300 cubic yards of earthen material obtained from the existing damaged levee section and nearby borrow areas. Construction areas would be seeded and mulched.

Section 8: NATIONAL ENVIRONMENTAL POLICY ACT REVIEW

As part of the NEPA review for the proposed project, CENWK circulated the attached Public Notice dated June 5, 2007 (Appendix II / Enclosure 1). The Public Notice described the proposed P.L. 84-99 Tri-County Kansas Drainage District No. 1, Sections 2 and 3, Levee Rehabilitation Project in detail and this enclosure also contains the mailing or notification list for which it was distributed. The following comments were received and evaluated from coordination of the Public Notice:

- a. The Environmental Protection Agency (EPA) did not provide comments on the project.
- b. The U.S. Fish and Wildlife Service (USFWS) in a letter dated 3 July 2007 (Appendix II / Enclosure 2) provided the following comments:

COMMENT: USFWS recommended that the Levee Setback Alternative (NWK recommended plan) be implemented due to the expected habitat improvement benefits it would provide.

RESPONSE: Concur.

COMMENT: USFWS noted that the proposed project could potentially affect the recently de-listed bald eagle (*Haliaeetus leucocephalus*). USFWS recommended that the Corps review the Draft National Bald Eagle Management Guidelines (May 2007) to identify measure which would prevent harm or injury to the bald eagle. These guidelines were developed to identify measures which minimize impacts to bald eagles, particularly where they may constitute a "disturbance", which is prohibited by the Bald and Golden Eagle Protection Act.

RESPONSE: The Corps has determined that the project as proposed would not cause injury or substantially interfere with bald eagle breeding, feeding, or sheltering behavior, nor would it cause or be likely to cause, a loss of productivity or nest abandonment. The closest active nest to the project site is located 2 miles downstream (personal communication David Hoover, OD-E with Nate Davis, Kansas Department of Wildlife and Parks). The project would not involve the clearing of any potential hunting perches or roost trees. Although construction activity is anticipated to occur during the fall/winter/early spring season when migratory bald eagles are found in greater numbers along the Kansas River, the activity would be short term, occur during daylight hours, and disturbance associated with construction equipment noise/movement would be similar to typical farming activities in the project area. Based on our review, the Corps has determined that the proposed activity is consistent with recommendations contained in the Draft National Bald Eagle Management Guidelines, May 2007.

COMMENT:

USFWS recommended that the Corps establish borrow sites in cropland or other bare ground and avoid, to the maximum extent practicable, riparian and wetland habitats. USFWS recommended that the Corps investigate borrow sources that could enhance wetland and aquatic habitat and public recreation.

RESPONSE: While the majority of the borrow will come from the existing damaged levee sections, the Corps will site borrow areas in bare or crop ground and, to the maximum extent practicable, avoid adverse impacts to wetland and riparian habitats unless these offer opportunities for enhancement of habitat value or public recreation.

COMMENT:

USFWS recommended that all disturbed areas be immediately replanted with native vegetation following construction to prevent erosion and the establishment of invasive species. USFWS specifically recommended the use of native, warm season short grasses such as buffalo grass (*Buchloe dactyloides*).

RESPONSE: Construction of the proposed project will occur on bare ground/agricultural row crop ground which is devoid of natural vegetation. In addition acquisition of borrow will occur on these same areas or involve excavation of the existing levee which is covered with brome/fescue grass and maintained in a mowed condition in compliance with inspection requirements of the P.L. 84-99 Levee Rehabilitation and Inspection Program. As no natural vegetation will be cleared, the Corps will not require that all disturbed areas, some which could continue to be used for agricultural production, be established with native vegetation. Should clearing of areas with natural vegetation be required to obtain borrow, the Corps would replant those areas with native vegetation.

COMMENT:

USFWS noted that invasive species have been identified as a major factor in the decline of native flora and fauna and impact aquatic resources. USFWS recommended implementation of a Best Management Practice (BMP) concerning the construction equipment brought on-site which would prevent the inadvertent spread of exotic and invasive species.

RESPONSE: Recommended BMP will be incorporated into construction contract.

COMMENT:

USFWS noted that the Migratory Bird Treaty Act (MBTA) prohibits the taking, killing, possession, transportation and importation of migratory birds, their eggs, parts, and nests, except when specifically authorized by the Department of the Interior. USFWS noted that the MBTA has no provision for allowing unauthorized take. USFWS recommended a field survey of the construction site if it appeared the proposed project appears likely to result in a take of migratory birds. USFWS further noted that their office should be contacted immediately for further guidance if a field survey identifies the existence of one or more active bird nests that cannot be avoided temporally or spatially by the planned activities.

RESPONSE: The project as proposed has very little if any potential to result in take as defined by the MBTA. Construction activity would occur outside the prime nesting period in Kansas, April 1 – July 15. Areas used for borrow would be located on the

existing grassed levee, bare ground or crop ground areas. These areas have minimal habitat value for most nesting birds. In addition, clearing of vegetation will be minimal. Should changed conditions result in activities which could potentially result in a take as defined by the MBTA, a Corps biologist will complete a field survey of the project site, and if warranted, conduct additional coordination with USFWS.

- c. Native American Tribes: No comments were received from any Native American Tribes.
- d. State and Local Agencies: The Kansas Department of Wildlife and Parks (KDWP) in an email dated June 29, 2007 (Appendix II, Enclosure 3) provided the following comments:

COMMENT: KDWP stated that no state-listed species or crucial habitat should be affected.

RESPONSE: Comment noted.

COMMENT: KDWP further recommended that the construction area be seeded with a native warm-season grass and provided a recommended mixture.

RESPONSE: See response to USFWS.

- e. General Public: No written comments were received from the General Public.

Section 9: AFFECTED ENVIRONNEMENT:

A wide variety of resources along with the related environmental, economic and social effects were considered during the development and evaluation of project alternatives. These include: atmospheric quality; noise levels; water quality; water supply; soil control; fish and wildlife; vegetation; energy resources; wetlands; geological resources; agricultural activity; employment; tax base; public service; growth patterns; land use; recreation; archaeological and historical resources; flood control; esthetics; navigation; transportation; health and safety; community service; population density and other items identified through public and agency comments.

The project area consists of agricultural row crop ground located on the Kansas River flood plain at the confluence of Cross Creek and the Kansas River. The project area involves approximately 5 acres in Section 2 and approximately 5 acres in Section 3. Additional borrow areas, whose exact size/location has not been identified at this time, would be needed under both of the build alternative. The Corps Kansas City District's Standard Operating Procedures for identification of potential borrow sites, which was developed in consultation with the resource agencies to avoid/and or minimize adverse environmental effects would be used for this project for either build alternative, if selected.

Section 10: ENVIRONMENTAL CONSEQUENCES:

Primary resources of concern identified during the evaluation included: noise levels, water quality, fish and wildlife, vegetation, wetlands, geologic resources, agricultural activity, archeological and historical resources, flood control, economics and esthetics. Projects impacts to other resources were determined to be no effect.

Noise levels

The recommended plan, Alternative 2 – Landward Levee Setback would result in minor short term construction related noise impacts. These impacts are the result of the operation of heavy machinery during project construction. These noise levels would be in addition, but similar to those produced by agricultural equipment which is routinely operated in the project area. No residences, businesses, churches, park areas or other areas sensitive to increased noise levels were identified in the project area. There is a remote chance that the noise from project construction could disturb the occasional boater on the nearby Kansas River or person(s) participating in outdoor recreation on the private land in the project area.

Alternative 1 – In-place Repair would result in noise impacts as described above for Alternative 2 – Landward Levee Setback.

The “No Action” alternative would produce no increase in noise levels in the project area.

Water quality

The recommended plan, Alternative 2 – Landward Levee Setback would result in minor, temporary, construction related adverse impacts to water quality resulting from site runoff increasing turbidity in Cross Creek. These impacts would be less than Alternative 1 – In-place Repair because there would be no direct placement of earthen/rock fill material in Cross Creek. The minor impacts associated with the recommended plan would be avoided and/or minimized to the greatest extent possible by the implementation of Best Management Practices and measures required under the National Pollutant Discharge Elimination System (NPDES) permit. The NPDES permit will be obtained prior to project construction. All appropriate measures will be taken to minimize erosion and storm water discharges during and after construction. The recommended plan does not involve placement of fill material in a Water of the United States and therefore, Section 401 Water Quality Certification is not required. The recommended plan does not involve placement of fill material in a Water of the United States. Therefore, authorization under Section 404 of the Clean Water Act is not required.

Alternative 1 – In-place Repair would result in minor, temporary, construction related adverse impacts to water quality. These adverse impacts to water quality would be greater than the recommended action because the proposed activity would involve the direct placement of earthen and rock fill material in Cross Creek. Although greater than Alternative 2 – Landward Levee Setback, these impacts would also be considered minor, temporary, and construction related. As with Alternative 1, these impacts would be avoided and/or minimized to the greatest extent possible by the implementation of Best Management Practices and measures required under the National Pollutant Discharge Elimination System permit. Alternative 1 – In-place repairs would require authorization under Sections 401 and 404 of the Clean Water Act

The “No Action” Alternative would have no effect on water quality.

Fish and wildlife

The recommended plan, Alternative 2 – Landward Levee Setback would result in minor, temporary, construction related adverse impacts to fish and wildlife resources. These impacts would be related to noise/visual disturbance during the construction activity. The proposed activity would occur on agricultural crop ground and no adverse impacts to existing fish and wildlife habitat would occur.

The recommended plan would have no adverse effects on any Federally-listed threatened or endangered species or their habitat. No impacts to any state listed threatened or endangered species or their habitat were identified.

Alternative 1 – In-place Repair would result in slightly greater impact to fishery resources than the recommended plan. Impacts would still be considered minor, temporary, construction related. These would result from the actual placement of fill material into Cross Creek. The construction activity would disturb fishery resources in the immediate project area and fill placement could actually cover some less mobile aquatic organisms. Increased turbidity could temporarily impair feeding behavior of sight feeding fish species. Impacts to wildlife resources and habitat would be the same as the recommended plan.

Alternative 1 would have no adverse effects on any Federally-listed threatened or endangered species or their habitat. No impacts to any state listed threatened or endangered species or their habitat were identified.

The “No Action” Alternative would have minimal effect on fish and wildlife resources, and these would primarily be related to flooding within the previously protected area. Wetland species may benefit as more frequent flooding of the previously protected area would recharge wetlands that have been hydrologically cut off from the Kansas River. Other terrestrial organisms could be killed, be temporarily displaced or have their habitat degraded by flooding.

The “No Action” alternative would have no adverse effects on any Federally-listed threatened or endangered species or their habitat. No impacts to any state listed threatened or endangered species or their habitat were identified.

Vegetation

The recommended plan, Alternative 2 – Landward Levee Setback would be constructed in an agricultural crop field reducing the area used for this purpose by approximately 4 acres. No natural vegetation would be affected by this alternative. The approximately 4 acres currently used to grow harvestable crops would be converted to grassed levee slopes.

Alternative 1 – In-place Repair would have no impact on natural vegetation or existing agricultural row crop

The “No Action” Alternative would have no effect

Wetlands

The recommended plan, Alternative 2 – Landward Levee Setback would have no effect on wetlands.

Alternative 1 – In-place Repair would have no effect on wetlands.

The “No Action” Alternative could result in minor benefits to wetlands located on the flood plain within the protected area as these areas would be subject to a high level risk of future flooding.

Geologic resources

The recommended plan, Alternative 2 – Landward Levee Setback will require a total of approximately 8,100 cubic yards of earthen material. This material will primarily come from excavation of the damaged levee and additional earthen material excavated from nearby borrow sources. Of the two build alternatives considered, the recommended plan has the least effect on geologic resources. Approximately 3,200 cubic yards of the total amount would come from the existing levee with the rest obtained from nearby borrow site(s). This alternative would not require any rock rip rap.

Of the build alternatives, Alternative 1 – In-place Repair has the greatest effect on geologic resources. This alternative would require rebuilding the eroded foreshore area with fill material, reconstructing the damaged levee, and stabilizing the riverward levee slope with rock riprap. This alternative would require approximately 14,000 cubic yards of earthen fill material and 3,900 cubic yards of rock riprap. All of the earthen material would be obtained from nearby borrow site(s) and the rock material would be obtained from a commercial quarry.

The “No Action” Alternative would have no effect on geologic resources.

Agricultural activity

The recommended plan, Alternative 2 – Landward Levee Setback, while restoring the level of flood damage reduction, would have slightly greater adverse impact on agricultural production due to the loss of agricultural land, approximately 4 acres, needed to construct the setback sections of levee and the loss/relocation of an existing irrigation well.

Alternative 1 – In-place Repair would have no adverse impacts on agricultural activity and would restore level of flood damage reduction.

The “No Action” Alternative would adversely impact agricultural activity by exposing the approximately 8,550 acres of cropland within the protected area to increased flooding. This loss of agricultural production would have related impacts such as lost income, lower tax base, and decreased land value.

Archeological and Historical Resources

The recommended plan, Alternative 2 – Landward Levee Setback would result in no effects to archaeological or historical resources. The National Register of Historic Places and the Federal Register have been checked to determine if any properties listed or proposed for listing in the National Register would be impacted by the project. In addition, the State Historic Preservation Officer has been contacted to determine if any properties eligible or potentially eligible for listing in the National Register would be impacted by the work.

In response to the Kansas City District's inquiry, the Kansas State Historic Preservation Office (KS-SHPO) provided the District with written responses dated June 14, 2007 (Appendix II / Enclosure 4) which stated that the project as proposed should have no effects on properties listed on the National Register of Historic Places or otherwise identified in their files. KS-SHPO stated that their office had no objection to implementation of the project. The Kansas City District's evaluation of potential impacts to historic properties indicates that the project would not impact any properties listed, proposed for listing, eligible for listing, or potentially eligible for listing in the National Register of Historic Places.

Alternative 1 – In-place Repair would result in no effects to archaeological or historical resources.

The “No Action” Alternative would result in no effects to archaeological or historical resources.

Flood control

The recommended plan, Alternative 2 – Landward Levee Setback would return an approximately 10 year level of flood protection to the existing levee system for both Section 2 and Section 3. Alternative 2 – Landward Levee Setback is located in the base floodplain and subject to Executive Order 11988, “Floodplain Management”. The recommended plan would restore the level of flood protection that existed prior to the flood. In addition, since the proposed levee repair would restore this levee to its near original alignment and pre-flood grade and cross section, no increase in floodwater surface elevations would occur. As the recommended plan would not directly or indirectly support more development in the floodplain or encourage additional occupancy and/or modification of the base floodplain, the Corps has determined that the recommended plan complies with the intent of Executive Order 11988.

Alternative 1 – In-place Repair would result in the impacts described above for the recommended plan, Alternative 2 – Landward Levee Setback.

The “No Action” Alternative would take into account that both Section 2 and Section 3 of the damaged levees are estimated to currently offer a 2 to 5 year level of flood protection as compared to the pre damaged levee condition which provided approximately the 10 year level of flood protection. The “No Action” Alternative would continue to expose all public and private infrastructure and agricultural croplands protected by the levee prior to the flood damage to a high level risk of future flooding.

Economics

Based on the Corps’ economic analysis, the recommended plan, Alternative 2 – Landward Levee Setback is economically justified with a benefit to cost ratio of 19.7. This is the highest benefit to cost ratio of the three alternatives considered.

Based on the Corps’ economic analysis, Alternative 1 – In-place Repair resulted in a benefit to cost ratio of 4.9, substantially lower than the recommended plan.

The “No Action” Alternative has a zero benefit to cost ratio and would continue to expose all public and private infrastructure and agricultural croplands protected by the levee prior to the flood damage to a high level risk of future flooding. People’s livelihood and social well-being would remain in turmoil, subject to the continuous threat of flooding until level of flood protection is restored. Failure to reconstruct the levee could adversely affect the tax base of the county and municipal governments and special districts, such as school districts. In addition, loss of jobs and potential losses in agricultural production on lands protected by the levee would also be incurred.

Esthetics

The recommended plan, Alternative 2 – Landward Levee Setback would result in very minor temporary adverse esthetic impacts associated with the construction activity. The human population that could potentially be affected by the activity would be expected to be very low in

number, restricted to the occasional boater on the Kansas River or person(s) participating in outdoor recreation on the private land in the project area. Upon completion of the project, esthetic impact of the project would be the same as the original levee.

Alternative 1 – In-place Repair would result in impacts as described for Alternative 2.

The “No Action” Alternative would have no effect

Section 11: SUMMARY OF ENVIRONMENTAL EFFECTS OF THE NON-RECOMMENDED PLANS

Alternative 1 – In Place Repairs Alternative has not been recommended because it would have more adverse environmental effects and provide lower economic benefits than the recommended plan. Repair in place alternative would involve the placement of fill material in a water of the United States and therefore require authorization under Sections 401 and 404 of the Clean Water Act. Placement of fill material would involve impacts to the aquatic ecosystem which are completely avoided by the recommended plan. A greater amount of fill material would be needed by Alternative 1 to fill the existing scour hole and rebuild the levee, requiring a more extensive borrow area. Alternative 1 would not require the acquisition of additional land by the levee district to construct the setback, nor would it reduce the amount of available cropland within the protected area and relocation/loss of one irrigation well. Alternative 1 would rehabilitate the damaged levee and restore the associated social and economic benefits, but would have higher environmental and economic costs.

Alternative 3 - The “No Action” Alternative has not been recommended because it would not meet the project purpose and need of rehabilitating the damaged flood damage reduction project to its original condition and therefore restoring its associated social and economic benefits. The “No Action” alternative would have no permanent or temporary construction related impacts. The “No Action” alternative would continue to expose all public and private infrastructure and agricultural croplands protected by the levee prior to the flood damage to a high level risk of future flooding. People’s livelihood and social well-being would remain in turmoil, subject to the continuous threat of flooding until level of flood protection is restored. Failure to reconstruct the levee could adversely affect the tax base of the county and municipal governments and special districts, such as school districts. In addition, loss of jobs and potential losses in agricultural production on lands protected by the levee would also be incurred.

Section 12: CUMULATIVE IMPACTS

Cumulative impact is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions (40CFR 1508.7). Prior to Europeans settling in the area the Kansas River and its floodplain was unaltered by bank stabilization, dams on the river and its tributaries, roads/bridges, agricultural and urban levees, channelization, farming, water withdrawal for human and agricultural use, urbanization and other human uses. These activities have substantially altered the terrestrial and aquatic ecosystem within the Kansas River watershed. Since the late 1940s the Corps has constructed water resource development and flood damage reduction projects on the Kansas River and its tributaries. These include Kanopolis Lake, Wilson Lake, Milford Lake, Tuttle

Creek Lake, Perry Lake, Clinton Lake, and Flood Damage Reduction Projects at Salina, Abilene, Junction City, Manhattan, Topeka, Lawrence and Kansas City. Currently the Corps with local sponsors are undertaking studies of the Federal levees at Manhattan, Topeka and Kansas City to determine if measure to improve the reliability of these existing flood damage reduction projects is warranted. In addition, the Corps, which administers Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act, has issued, and will continue to evaluate permits authorizing the placement of fill material in the Waters of the United States and/or work on, in, over or under a navigable water of the United States on the Kansas River and its tributaries. These projects typically result in minor impacts to the aquatic ecosystem. The Corps under the authority of the Public Law 84-99 Levee Rehabilitation and Inspection Program has, and will continue to provide rehabilitation assistance to Federal and non-Federal levee sponsors along the Kansas River which participate in the Public Law 84-99 Program when their flood damage reduction projects suffer flood damage. The project as proposed would restore the flood damage reduction capability of the existing levees. Resources typically affected by these type projects may include wetlands, flood plain values, water quality, fish and wildlife habitat. Of the reasonably foreseeable projects and associated impacts that would be expected to occur, further urbanization of the floodplain will probably have the greatest impact on these resources in the future. One example, although not a Corps study at this time, are local effort to study the potential for additional flood damage reduction projects upstream from the existing levee system on the Kansas River at Kansas City. Outside the ever expanding urban areas there is little potential in the future for the construction of additional agricultural levees, major reservoirs, major wetland conversions, or clearing of riparian timber along the Kansas River. The adverse effects associated with the proposed project are long-term/minor associated with the loss of agricultural cropland, or short term/minor and related to project construction. These minor adverse effects and would be greatly offset by restoring the flood damage reduction capability, and its associated social and economic benefits, of the existing levee system. No significant cumulative impacts associated with the proposed rehabilitation of the existing levee system have been identified.

Section 13: MITIGATION MEASURES

The recommended plan will result in no impacts to mitigable resources as defined in USACE Planning regulations or under Section 404 of the Clean Water Act. Therefore, no mitigation measures are warranted or proposed.

Section 14: COMPLIANCE WITH ENVIRONMENTAL QUALITY STATUTES

Compliance with Designated Environmental Quality Statutes that have not been specifically addressed earlier in this report are covered in the following Table:

Table 1
Compliance of Preferred Alternative with Environmental Protection
Statutes and Other Environmental Requirements

Federal Policies	Compliance
Archeological Resources Protection Act, 16 U.S.C. 470, et seq.	Full Compliance
Clean Air Act, as amended, 42 U.S. C. 7401-7671g, et seq.	Full Compliance
Clean Water Act (Federal Water Pollution Control Act), 33 U.S.C. 1251, et seq.	Full Compliance
Coastal Zone Management Act, 16 U.S.C. 1451, et seq.	Not Applicable
Endangered Species Act, 16 U.S.C. 1531, et seq.	Full Compliance
Estuary Protection Act, 16 U.S.C. 1221, et seq.	Not Applicable
Federal Water Project Recreation Act, 16 U.S.C. 4601-12, et seq.	Full Compliance
Fish and Wildlife Coordination Act, 16 U.S.C. 661, et seq.	Full Compliance
Land and Water Conservation Fund Act, 16 U.S.C. 4601-4, et seq.	Not Applicable
Marine Protection Research and Sanctuary Act, 33 U.S.C. 1401, et seq.	Not Applicable
National Environmental Policy Act, 42 U.S.C. 4321, et seq.	Full Compliance
National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470a, et seq.	Full Compliance
Rivers and Harbors Act, 33 U.S.C. 403, et seq.	Full Compliance
Watershed Protection and Flood Prevention Act, 16 U.S.C. 1001, et seq.	Full Compliance
Wild and Scenic River Act, 16 U.S.C. 1271, et seq.	Not Applicable
Farmland Protection Policy Act, 7 U.S.C. 4201, et. seq.	Full Compliance
Protection & Enhancement of the Cultural Environment (Executive Order 11593)	Full Compliance
Floodplain Management (Executive Order 11988)	Full Compliance
Protection of Wetlands (Executive Order 11990)	Full Compliance
Environmental Justice (Executive Order 12898)	Full Compliance

NOTES:

- a. Full compliance. Having met all requirements of the statute for the current stage of planning (either preauthorization or postauthorization).
- b. Partial compliance. Not having met some of the requirements that normally are met in the current stage of planning.
- c. Noncompliance. Violation of a requirement of the statute.
- d. Not applicable. No requirements for the statute required; compliance for the current stage of planning.

Section 15: CONCLUSION & RECOMMENDATION

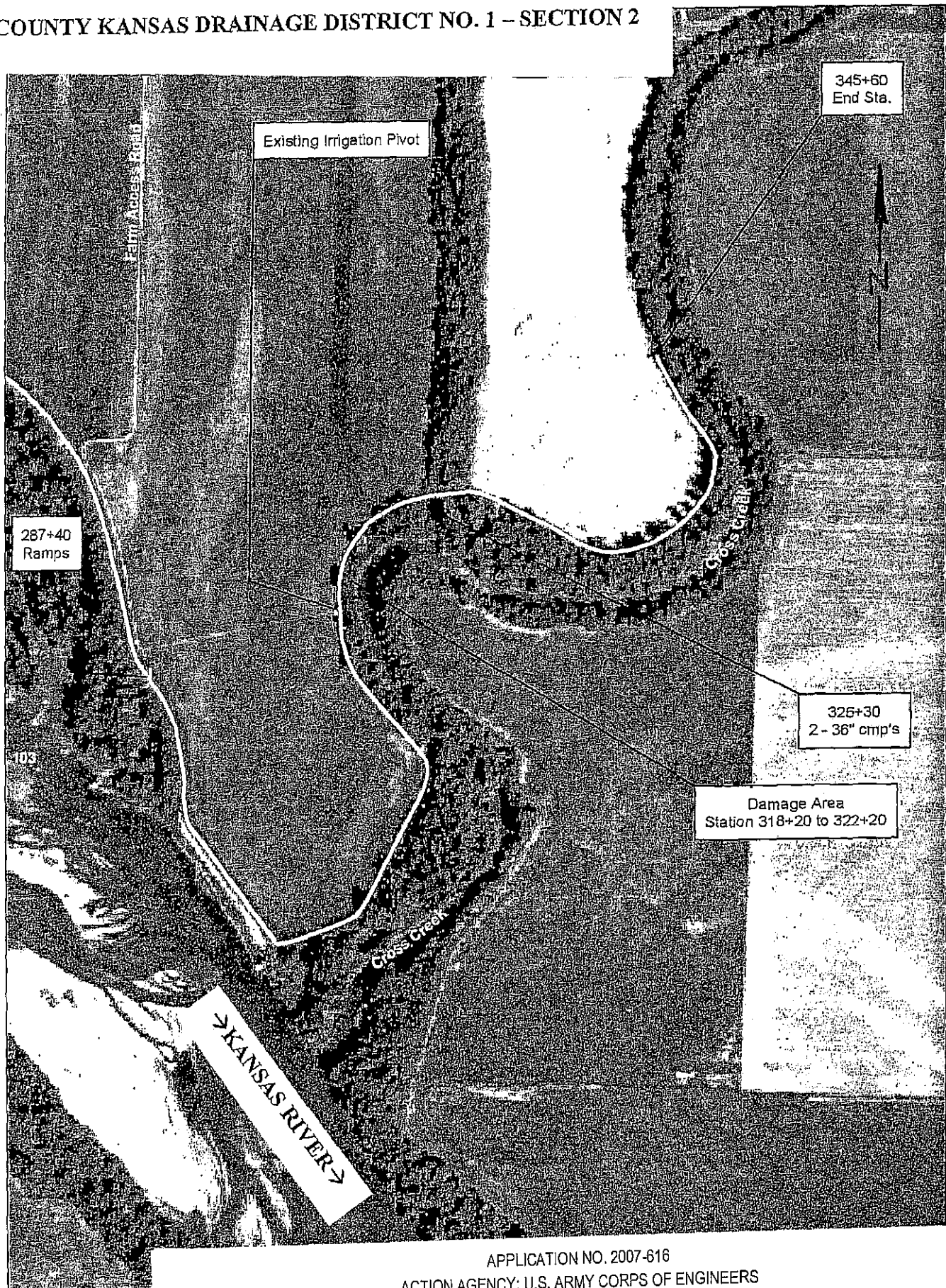
As the repairs would be on alignments landward of the existing levees, the recommended plan Alternative 2 - Landward Levee Setback would require that the drainage district acquire additional real estate for the setback levee alignments and the setback reduces available agricultural cropland by approximately 4 acres total and in Section 2 requires the relocation/loss of one irrigation well. This irrigation well is currently located landward of the existing levee in Section 2 and after construction would be located riverward of the levee. Flood damage reduction level achieved by the recommended plan would be the same as with Alternative 1 and the original pre-flood levees. The recommended plan would result in no impacts to any Federally-listed threatened or endangered species or their habitat. The recommended plan would result in no impacts to any properties listed, proposed for listing, eligible for listing, or potentially eligible for listing in the National Register of Historic Places. Areas of the existing levee sections damaged by flooding would be temporarily disturbed by the proposed construction activity. The adverse effects associated with the proposed project are long-term/minor associated with the loss of agricultural cropland, or short term/minor and related to project construction. These minor adverse effects and would be greatly offset by restoring the flood damage reduction capability, and its associated social and economic benefits, of the existing levee system. Alternative 2-Landward Levee Setback meets the project purpose and need of rehabilitating the flood damage reduction capability, and its associated social and economic benefits, of the existing levee system. Of the three (3) alternatives considered, Alternative 2 - Landward Levee Setback is recommended because it has the least environmental impact, avoids impacts to the aquatic ecosystem, requires the least amount of earthen material to construct, does not require any rock fill for bank stabilization, had the lowest costs, and the highest cost/benefit ratio.

Based on coordination with the resource agencies and input gained through a public interest review, as documented in this Environmental Assessment, the Kansas City District - Corps of Engineers has made a preliminary determination that this project would have no significant impacts on the human environment including natural and cultural resources and Federally-listed threatened and endangered species; therefore, a Finding of No Significant Impact (FONSI) has been prepared. This NEPA decision document will be forwarded to the District Engineer with a recommendation for approval.

APPENDIX I – PROJECT DRAWINGS

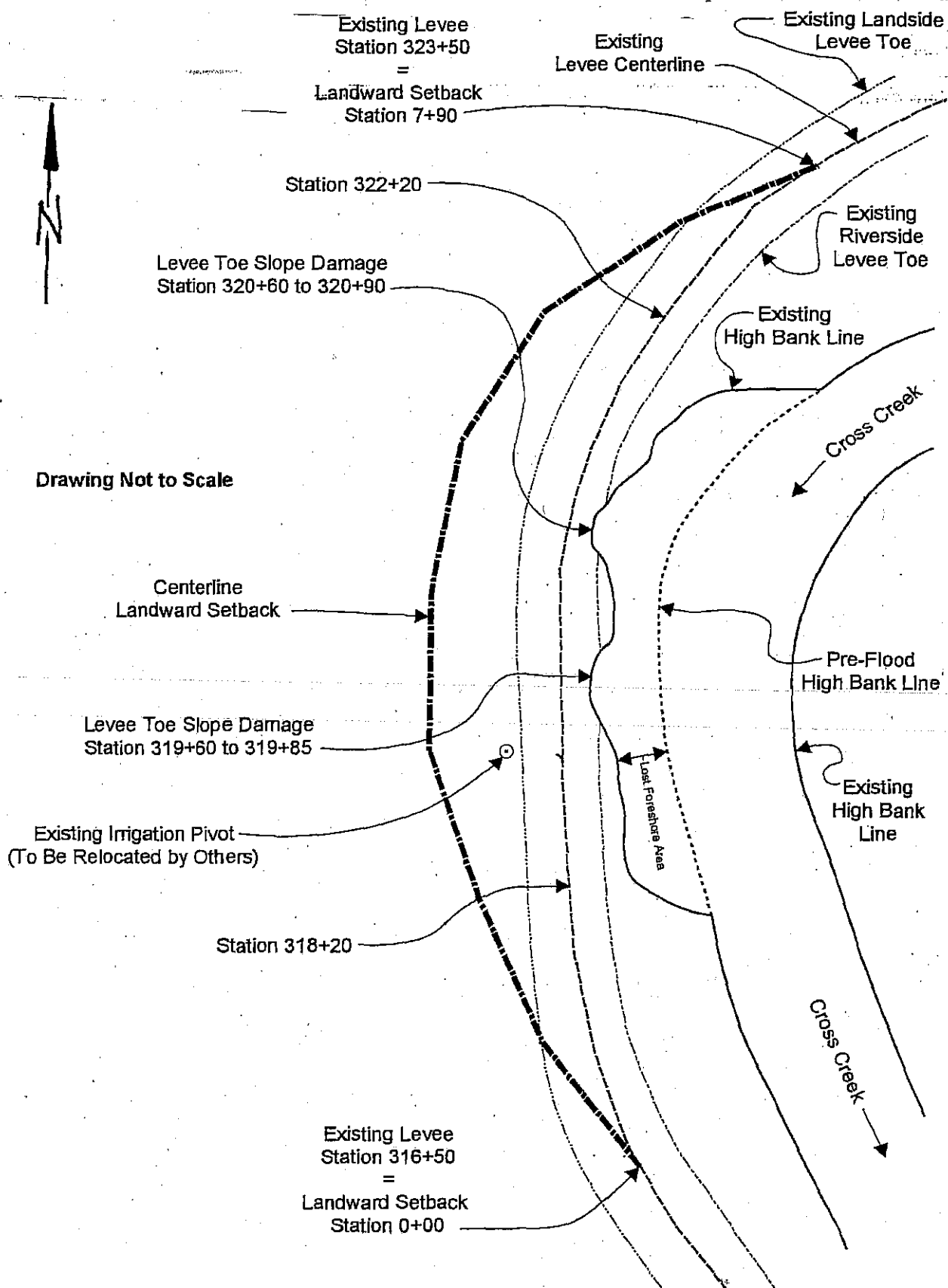
*Tri-County Kansas Drainage District No. 1
P.L. 84-99 Levee Rehabilitation Project
Shawnee County, Kansas
August 2007*

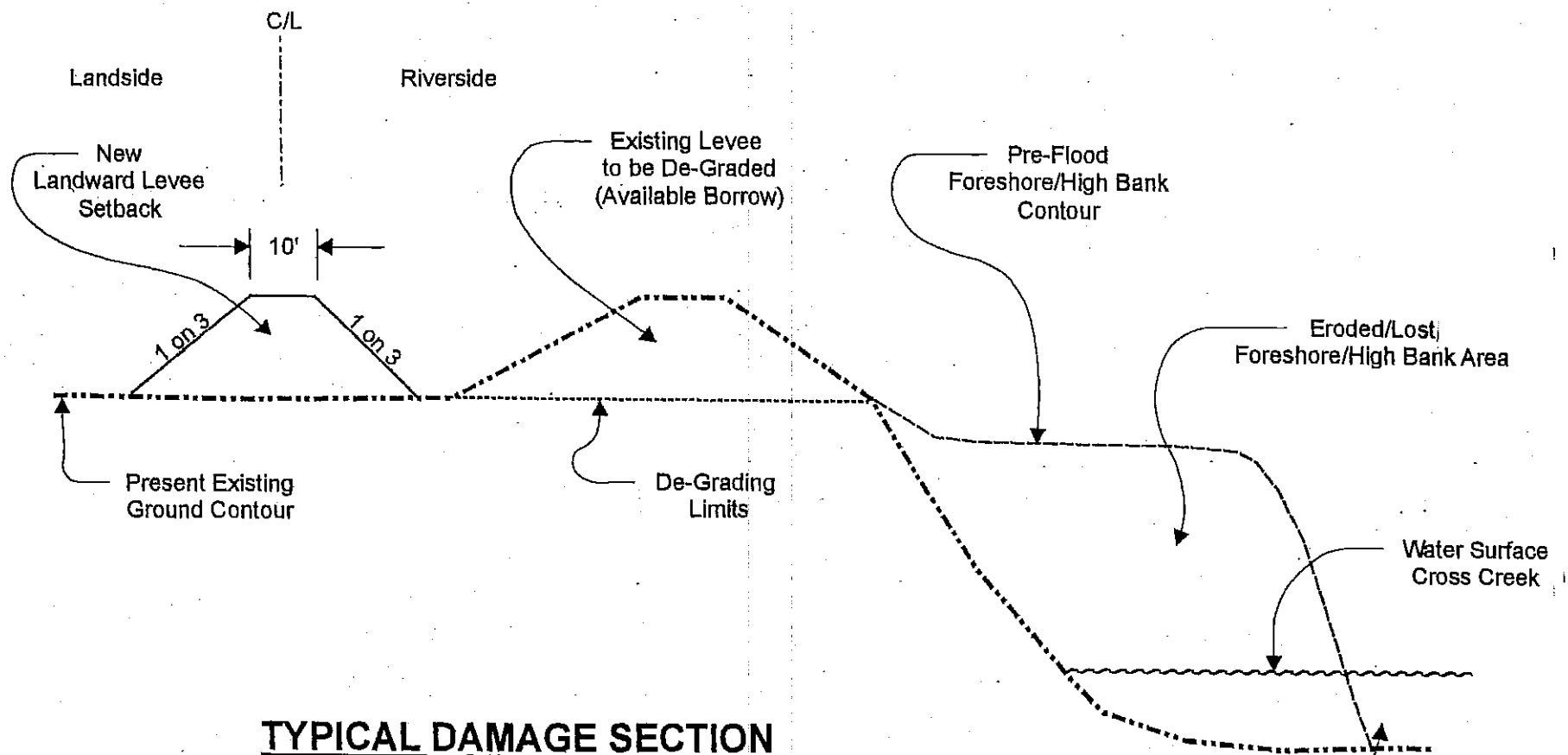
TRI-COUNTY KANSAS DRAINAGE DISTRICT NO. 1 - SECTION 2



APPLICATION NO. 2007-616
ACTION AGENCY: U.S. ARMY CORPS OF ENGINEERS
APPLICANT: TRI-COUNTY KANSAS DRAINAGE DISTRICT NO. 1
PROJECT: EARTHEN LEVEE REPAIR/P.L. 84-99
LOCATION: LDB and RDB of CROSS CREEK, SHAWNEE COUNTY, KANSAS
PAGE 2 of 7
DATED 5 JUNE 2007

TRI-COUNTY KANSAS DRAINAGE DISTRICT NO. 1 – SECTION 2





TRI-COUNTY KANSAS DRAINAGE DISTRICT NO. 1 – SECTION 2

Drawing Not to Scale

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PAGE 4 of 7
 DATED 5 JUNE 2007

TRI-COUNTY KANSAS DRAINAGE DISTRICT NO. 1 – SECTION 3

Damage Area
Station 0+00 to 9+50

Cross Creek

0+00

15+70

→ KANSAS RIVER →

APPLICATION NO. 2007-616

ACTION AGENCY: U.S. ARMY CORPS OF ENGINEERS

APPLICANT: TRI-COUNTY KANSAS DRAINAGE DISTRICT NO. 1

PROJECT: EARTHEN LEVEE REPAIR/P.L. 84-99

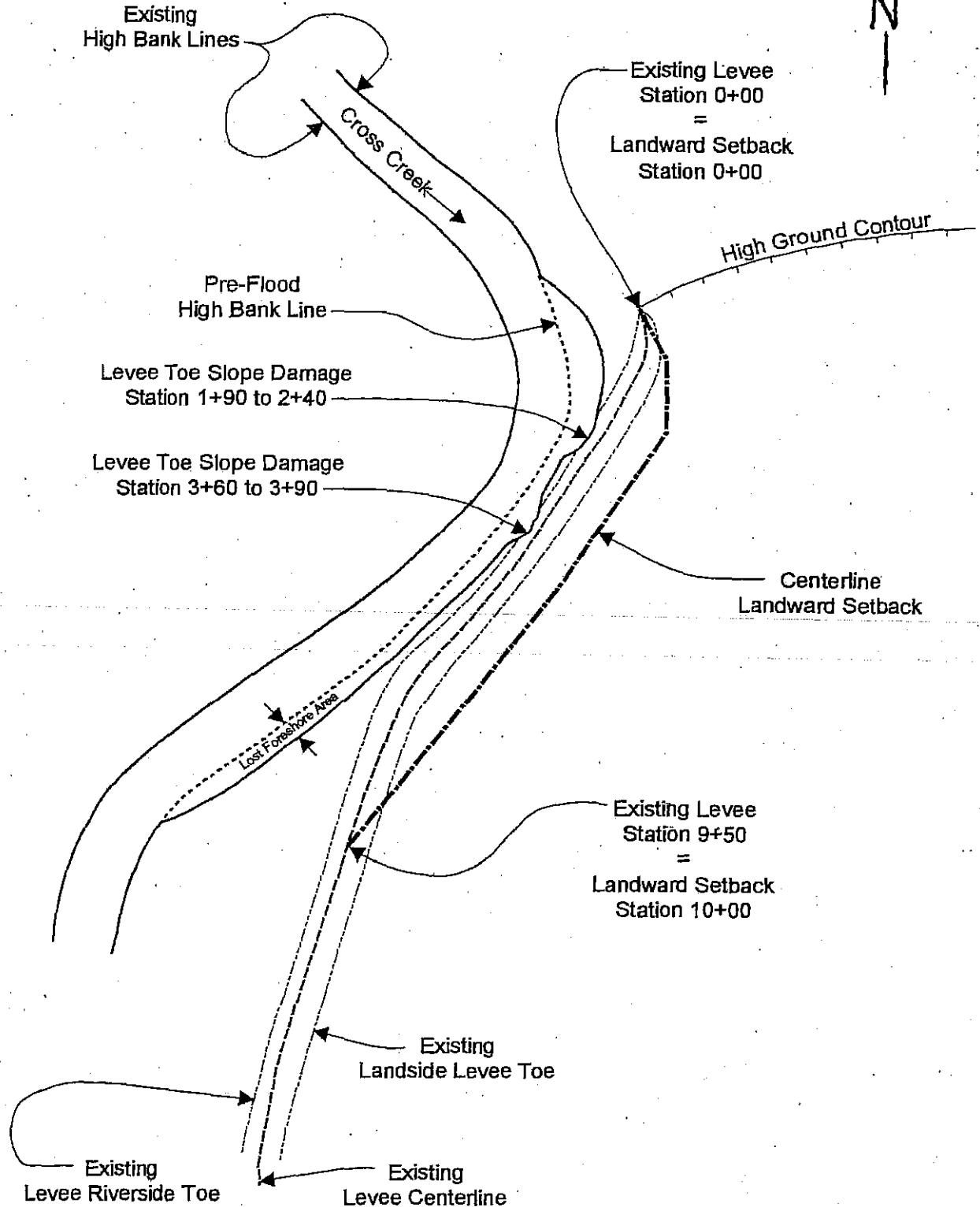
LOCATION: LDB and RDB of CROSS CREEK, SHAWNEE COUNTY, KANSAS

PAGE 5 of 7

DATED 5 JUNE 2007

Drawing Not to Scale

TRI-COUNTY KANSAS DRAINAGE DISTRICT NO. 1 – SECTION 3



APPLICATION NO. 2007-616

ACTION AGENCY: U.S. ARMY CORPS OF ENGINEERS

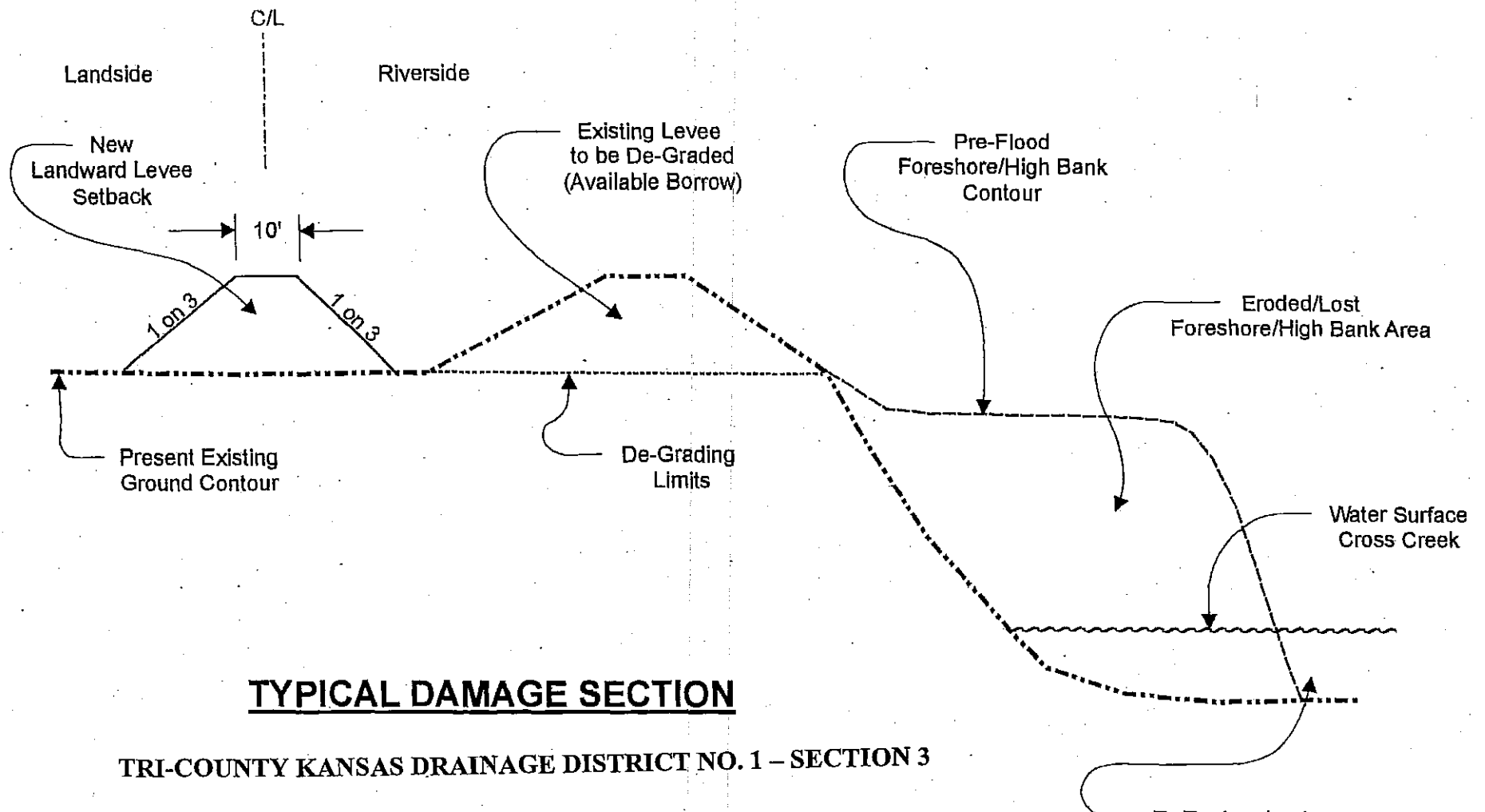
APPLICANT: TRI-COUNTY KANSAS DRAINAGE DISTRICT NO. 1

PROJECT: EARTHEN LEVEE REPAIR/P.L. 84-99

LOCATION: LDB and RDB of CROSS CREEK, SHAWNEE COUNTY, KANSAS

PAGE 6 of 7

DATED 5 JUNE 2007



TRI-COUNTY KANSAS DRAINAGE DISTRICT NO. 1 – SECTION 3

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 LOCATION: LDB and RDB of CROSS CREEK, SHAWNEE COUNTY, KANSAS
 PAGE 7 of 7
 DATED 5 JUNE 2007

APPENDIX II – NEPA REVIEW

*Tri-County Kansas Drainage District No. 1
P.L. 84-99 Levee Rehabilitation Project
Shawnee County, Kansas
August 2007*

PUBLIC NOTICE



US Army Corps
of Engineers
Kansas City District

Public Notice No. 2007-616
Issue Date: June 5, 2007
Expiration Date: July 5, 2007

30-day Notice

ACTION AGENCY:

Kansas City District, Corps of Engineers
700 Federal Building
Kansas City, Missouri 64106-2896

APPLICANT:

Tri-County Kansas Drainage District No. 1
Mr. Laird French, President
330 NW Carlson Rd.
Topeka, Kansas 66615

PROJECT LOCATION (As shown on the attached drawings): The proposed repair in the Tri-County Kansas Drainage District No. 1 – Section 2 is located along the right descending bank (RDB) of Cross Creek, in Section 9, Township 11 south, Range 13 east, Shawnee County Kansas.

The proposed repair in the Tri-County Kansas Drainage District No. 1 – Section 3 is located along the left descending bank (LDB) of Cross Creek, in Section 10, Township 11 south, Range 13 east, Shawnee County Kansas.

AUTHORITY: P.L. 84-99 of the Flood Control Act of 1944.

ACTIVITY (As shown on the attached drawings): **PROPOSED WORK:** The applicant has requested project authorization and funding from the U.S. Army Corps of Engineers under Public Law 84-99 of the Flood Control Act of 1944 for construction to repair two sections of levee damaged by high flows in an October 2005 flood event. Project cost under this program are 80% Federal and 20% applicant.

The Tri-County Kansas Drainage District No. 1 – Section 2 consists of approximately 34,560 linear feet of earthen flood control works (FCW) located on the LDB of the Kansas River between river mile 105.6 and 102.7, LDB of Bourbonais Creek and RDB of Cross Creek near the town of Rossville, Shawnee County, Kansas. The FCW protects approximately 5,482 acres. The level of protection for this levee is estimated to exceed the 10-year flood event. As a result of the October 2005 flood event severe foreshore erosion occurred riverward of levee station 318+20 to 322+20 and the FCW suffered intermittent damage along the riverside levee toe slope from stations 319+60 to 319+85 and 320+60 to 320+90. The recommended repair consists of repair of the lost foreshore area and intermittent riverside levee toe slope (sta. 319+60 to 319+85 and 320+60 to 320+90, with an approximate 790-linear-foot-long landward levee setback. The repair would require 8,100 cubic yards of earthen material obtained from the existing damaged levee section and nearby borrow areas. Construction areas would be seeded and mulched.

End 1

The Tri-County Kansas Drainage District No. 1 – Section 3 consists of approximately 33,040 linear feet of earthen FCW located on the LDB of the Kansas River between river mile 102.7 and 96.2, LDB of Cross Creek and RDB of Ensign Creek near the towns of Rossville and Silver Lake, Shawnee County, Kansas. The FCW protects approximately 4,009 acres. The level of protection for this levee is estimated to exceed the 10-year flood event. As a result of the October 2005 flood event severe foreshore erosion occurred riverward of levee station 0+00 to 9+50 and the FCW suffered intermittent damage along the riverside levee toe slope from stations 1+90 to 2+40 and 3+60 to 3+90. The recommended repair consists of repair of the lost foreshore area and intermittent riverside levee toe slope (sta. 1+90 to 2+40 and 3+60 to 3+90, with an approximate 1,000-linear-foot-long landward levee setback. The repair would require 10,300 cubic yards of earthen material obtained from the existing damaged levee section and nearby borrow areas. Construction areas would be seeded and mulched.

DRAWINGS: The attached drawings provide location details of the proposed project.

ADDITIONAL INFORMATION: Additional information about this notice can be obtained by writing **Mr. David R. Hoover, National Disaster Program Manager, Emergency Management Branch, 700 Federal Building, 601 East 12th Street, Kansas City, Missouri 64106** or by calling **816-389-3497 (FAX 816-389-2036)**.

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) OF 1968, as amended: The Corps has made a preliminary determination that the proposed project would not result in significant degradation of the human environment and therefore the proposed project would support a Finding of No Significant Impact (FONSI). The Corps will utilize comments received in response to this Public Notice to complete our evaluation of the project for compliance with the requirements of NEPA, and other Federal, state, and local regulations.

OTHER ALTERNATIVES CONSIDERED: The Corps is evaluating the In-place Repair Alternative and the "No Action" Alternative but has made a preliminary determination that the Levee Setback Alternative, as described above, represents the most economically viable and environmentally sound alternative identified.

WETLANDS and WATERS OF THE UNITED STATES: No wetlands would be affected by the proposed project. No dredged or fill material would be discharged in a Water of the United States. Therefore, no authorization under Section 404 of the Clean Water Act of 1972, as amended, is required.

PROPERTY ADJACENT TO PROJECT AREA: The Project Sponsor owns or has secured easements or right of ways on the property where the project would be constructed and borrow areas. Adjacent areas are in private ownership.

CULTURAL RESOURCES: A Programmatic Agreement regarding implementation of the Public Law 84-99 program in Missouri, Kansas, Iowa and Nebraska was signed by the Advisory Council on Historic Preservation, the Kansas City District and the four State Historic Preservation Offices (SHPO) during the Flood Event of 1993. After review of materials from a previous cultural resources investigation by a qualified archaeologist in 1993 and previous coordination with the SHPO, it was determined that the proposed borrow area is located within previously cleared/approved borrow area sites; therefore, additional site investigations and coordination efforts are not required.

ENDANGERED SPECIES: In compliance with the Endangered Species Act, a preliminary determination has been made that the described work will not affect species designated as threatened or endangered or adversely affect critical habitat. In order to complete our evaluation of this activity, comments are solicited from the U.S. Fish and Wildlife Service and other interested agencies and individuals.

FLOODPLAINS: This recommended plan is located in the base floodplain and subject to Executive Order 11988, "Floodplain Management". The recommended plan would restore the level of flood protection that existed prior to the flood. In addition, since the proposed levee repair would restore this levee to its near original alignment and pre-flood grade and cross section, no increase in floodwater surface elevations would occur. As the recommended plan would not directly or indirectly support more development in the floodplain or encourage additional occupancy and/or modification of the base floodplain, the Corps has determined that the recommended plan complies with the intent of Executive Order 11988.

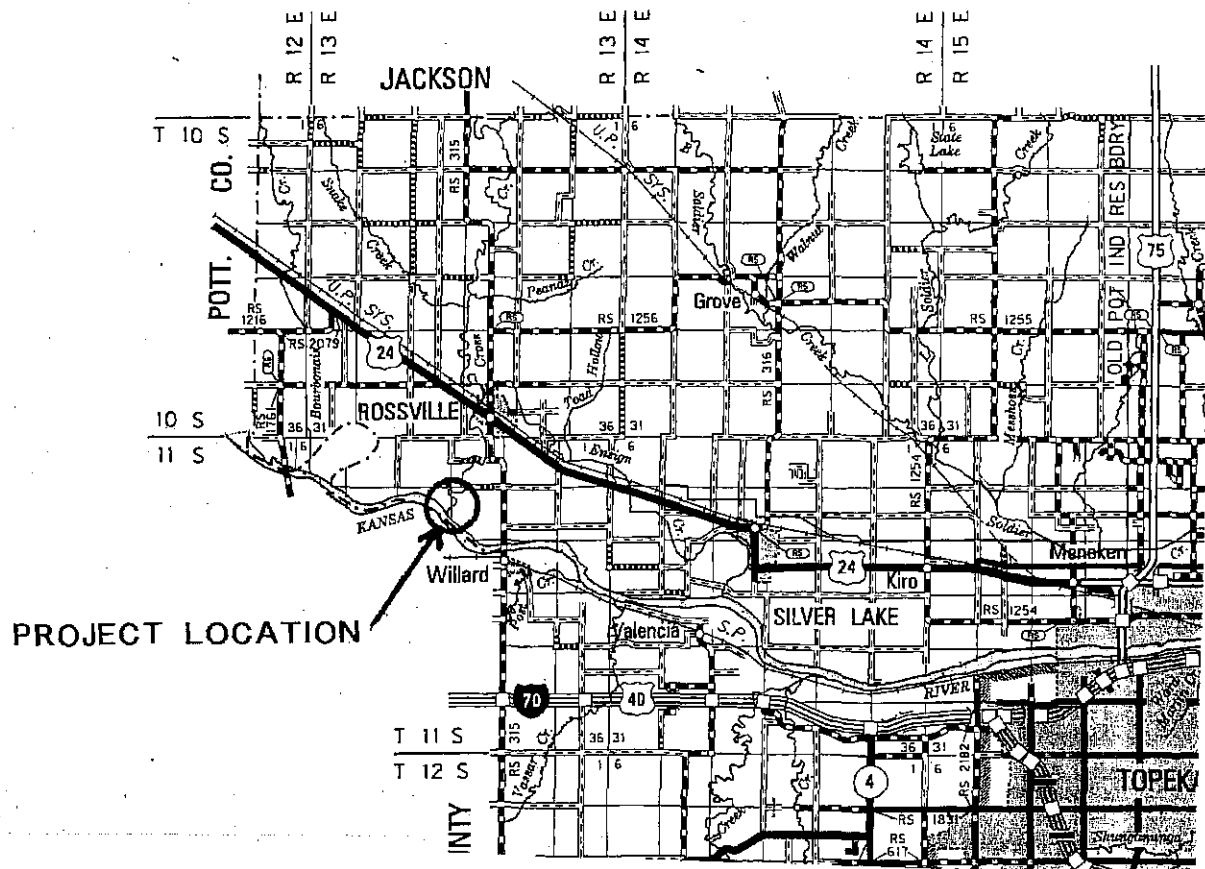
WATER QUALITY CERTIFICATION: Section 401 of the Clean Water Act (33 USC 1341) requires that all discharges of dredged or fill material must be certified by the appropriate state agency as complying with applicable effluent limitations and water quality standards. Since the proposed project would not involve a discharge of dredged or fill material in a Water of the United States a Section 401 Water Quality Certification is not required.

PUBLIC INTEREST REVIEW: The decision to authorize the proposed project will be based on an evaluation of the probable impact including the cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, esthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and, in general, the needs and welfare of the people. The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

COMMENTS: This notice is provided to outline details of the above-described activity so this District may consider all pertinent comments prior to determining if authorization of the proposed project would be in the public interest. Any interested party is invited to submit to this office written facts or objections relative to the activity on or before the

public notice expiration date. Comments both favorable and unfavorable will be accepted and made a part of the record and will receive full consideration by the Corps. Copies of all comments, including names and addresses of commenters, may be provided to the applicant. Comments should be mailed to ATTN: OD-E (Hoover), U.S. Army Corps of Engineers, 700 Federal Building, 601 E. 12th St., Kansas City, MO 64106. Further information may be obtained by calling David Hoover, Emergency Management Specialist at (816) 389-3497 or by e-mail at david.r.hoover@nwk02.usace.army.mil.

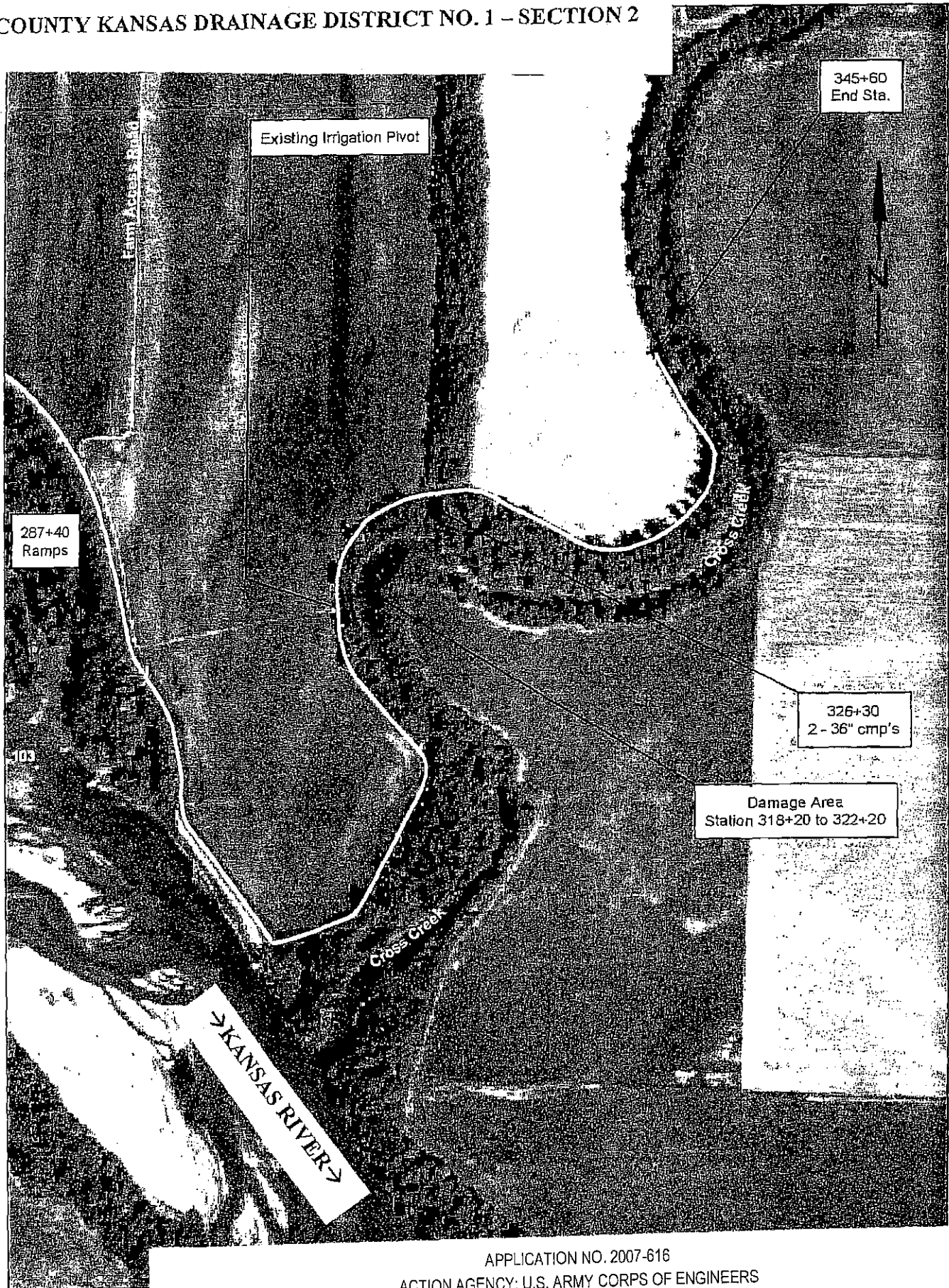
PUBLIC HEARING: Any person may request, in writing, prior to the expiration date of this public notice, that a public hearing be held to consider this application. Such requests shall state, with particularity, the reasons for holding a public hearing.



**PROJECT LOCATION
SECTIONS 9 and 10
TOWNSHIP 11 SOUTH
RANGE 13 EAST
RDB and LDB of CROSS CREEK
NEAR THE CITY OF ROSSVILLE
SHAWNEE COUNTY, KANSAS**

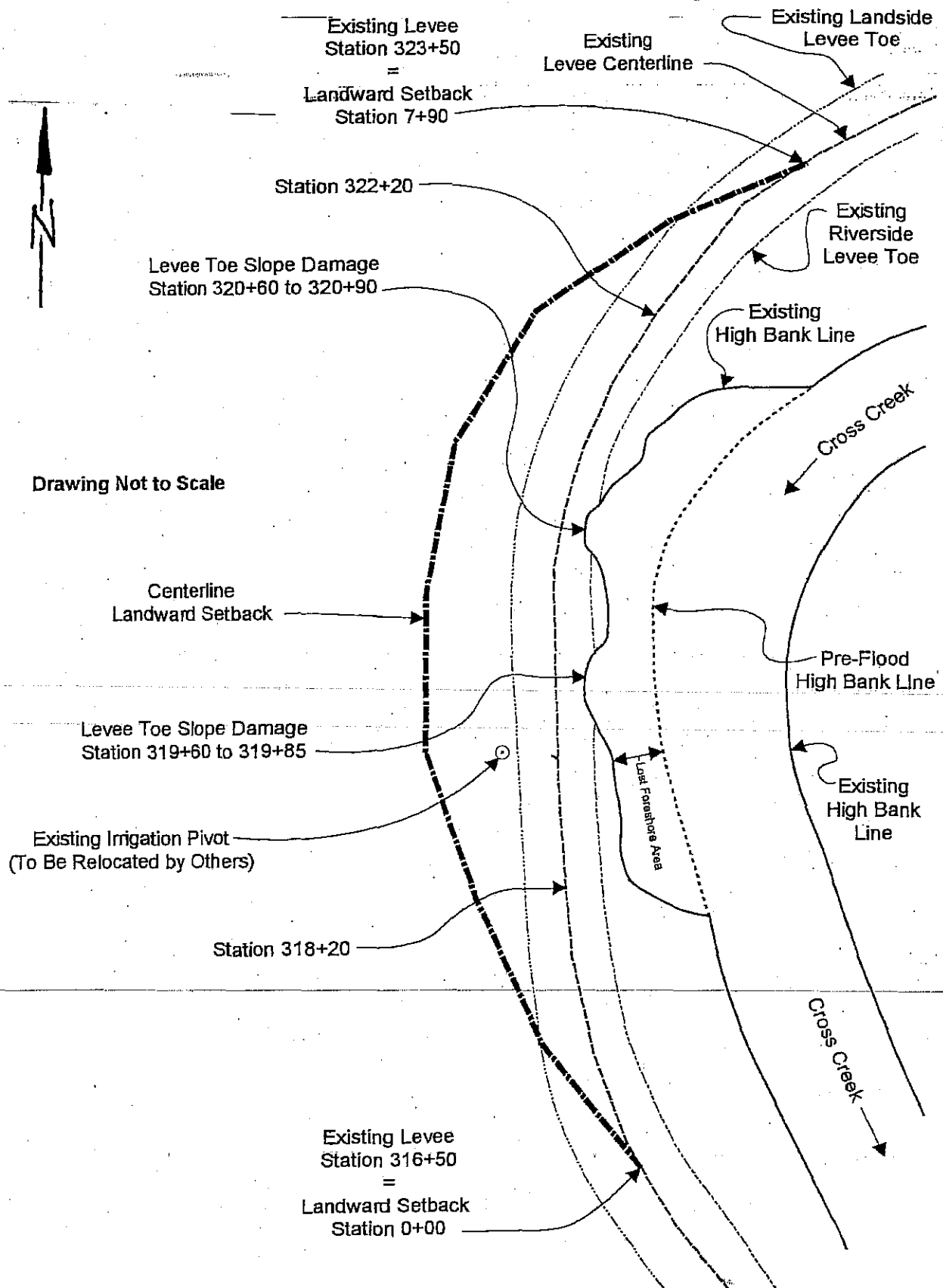
APPLICATION NO. 2007-616
ACTION AGENCY: U.S. ARMY CORPS OF ENGINEERS
APPLICANT: TRI-COUNTY KANSAS DRAINAGE DISTRICT NO. 1
PROJECT: EARTHEN LEVEE REPAIR/P.L. 84-99
LOCATION: LDB and RDB of CROSS CREEK, SHAWNEE COUNTY, KANSAS
PAGE 1 of 7
DATED 5 JUNE 2007

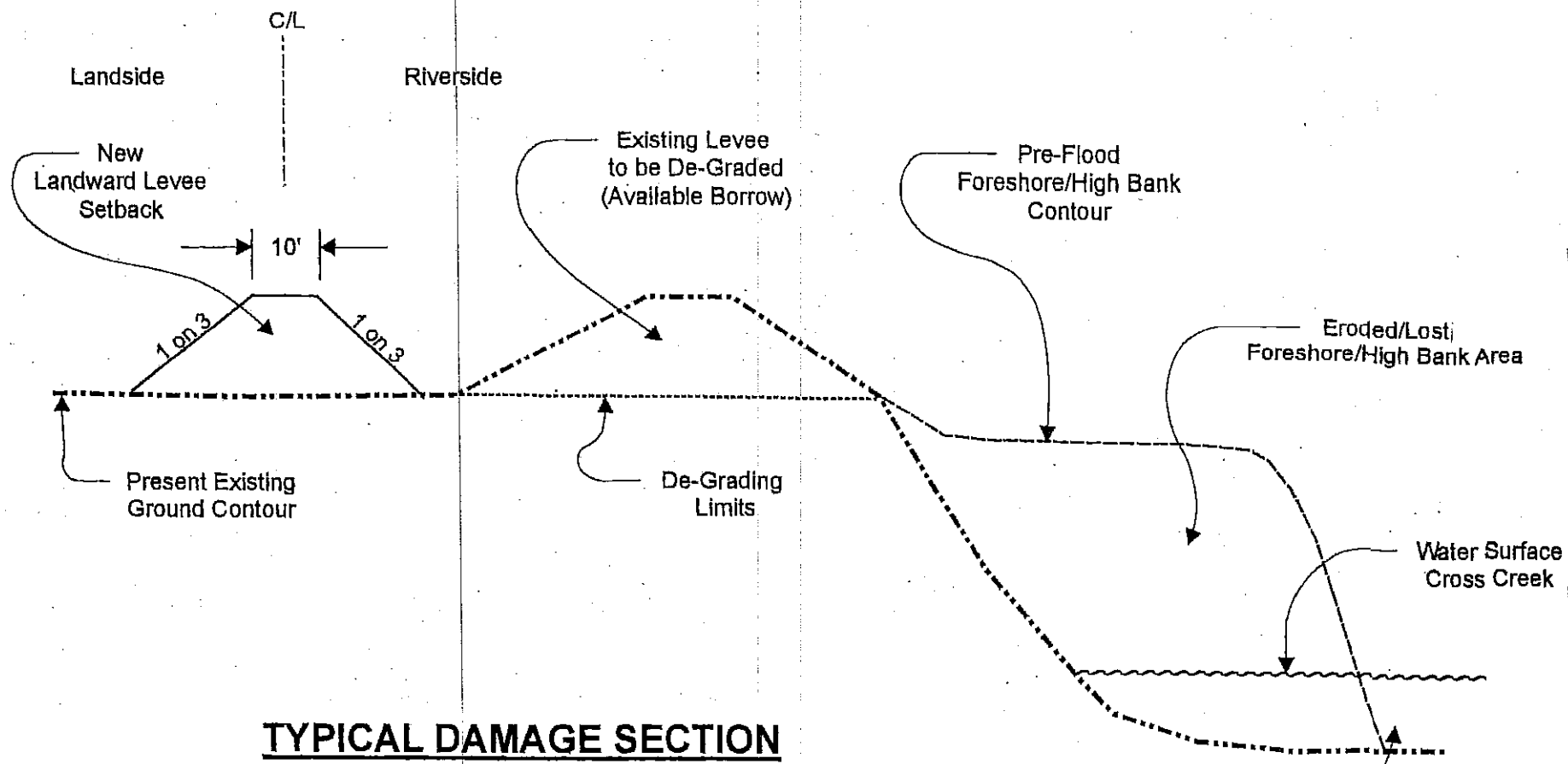
TRI-COUNTY KANSAS DRAINAGE DISTRICT NO. 1 - SECTION 2



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LOCATION: LDB and RDB of CROSS CREEK, SHAWNEE COUNTY, KANSAS
PAGE 2 of 7
DATED 5 JUNE 2007

TRI-COUNTY KANSAS DRAINAGE DISTRICT NO. 1 – SECTION 2





TYPICAL DAMAGE SECTION

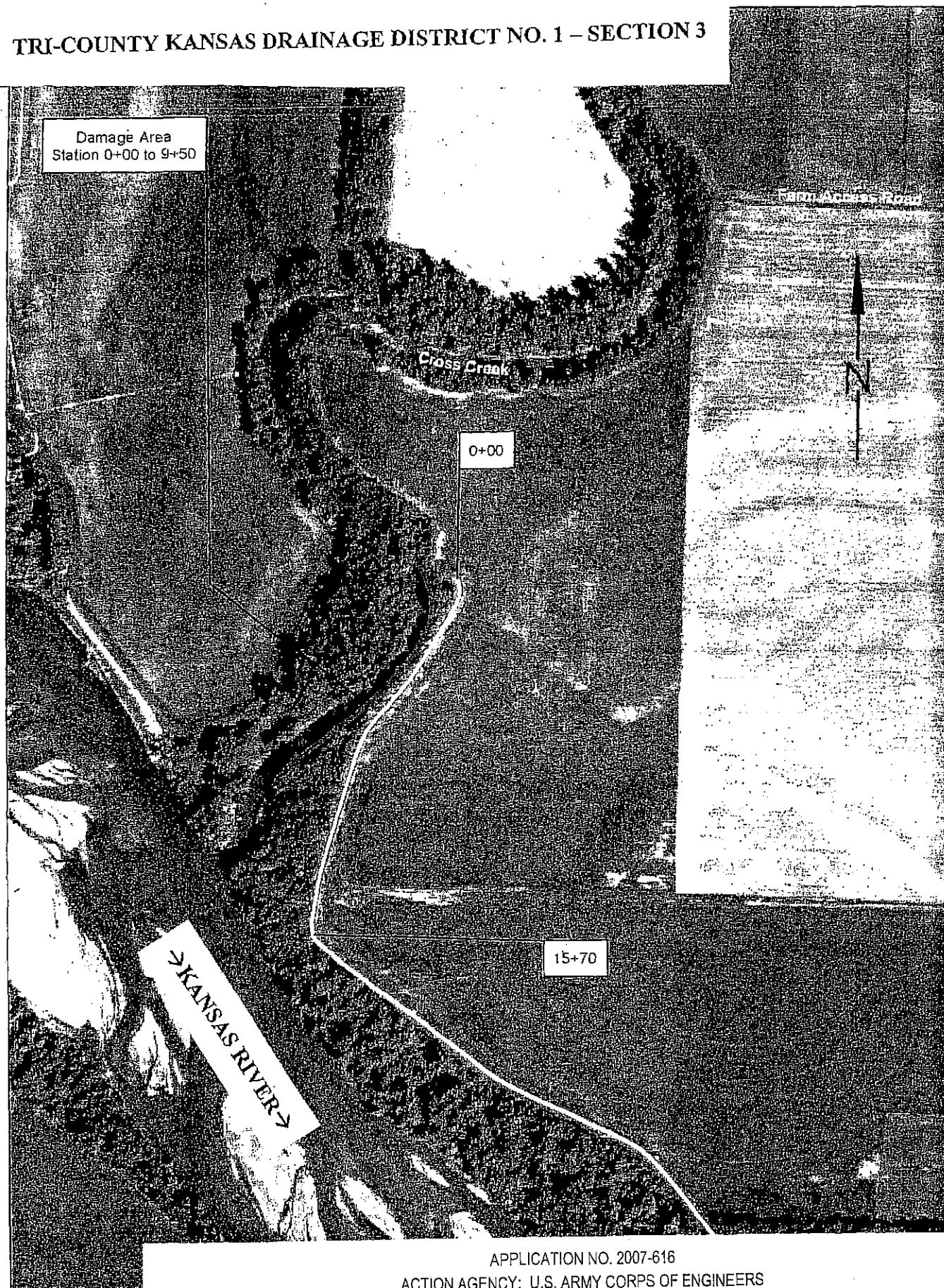
TRI-COUNTY KANSAS DRAINAGE DISTRICT NO. 1 – SECTION 2

Drawing Not to Scale

APPLICATION NO. 2007-616
 ACTION AGENCY: U.S. ARMY CORPS OF ENGINEERS
 APPLICANT: TRI-COUNTY KANSAS DRAINAGE DISTRICT NO. 1
 PROJECT: EARTHEN LEVEE REPAIR/P.L. 84-99
 LOCATION: LDB and RDB of CROSS CREEK, SHAWNEE COUNTY, KANSAS

PAGE 4 of 7
 DATED 5 JUNE 2007

TRI-COUNTY KANSAS DRAINAGE DISTRICT NO. 1 – SECTION 3



APPLICATION NO. 2007-616

ACTION AGENCY: U.S. ARMY CORPS OF ENGINEERS

APPLICANT: TRI-COUNTY KANSAS DRAINAGE DISTRICT NO. 1

PROJECT: EARTHEN LEVEE REPAIR/P.L. 84-99

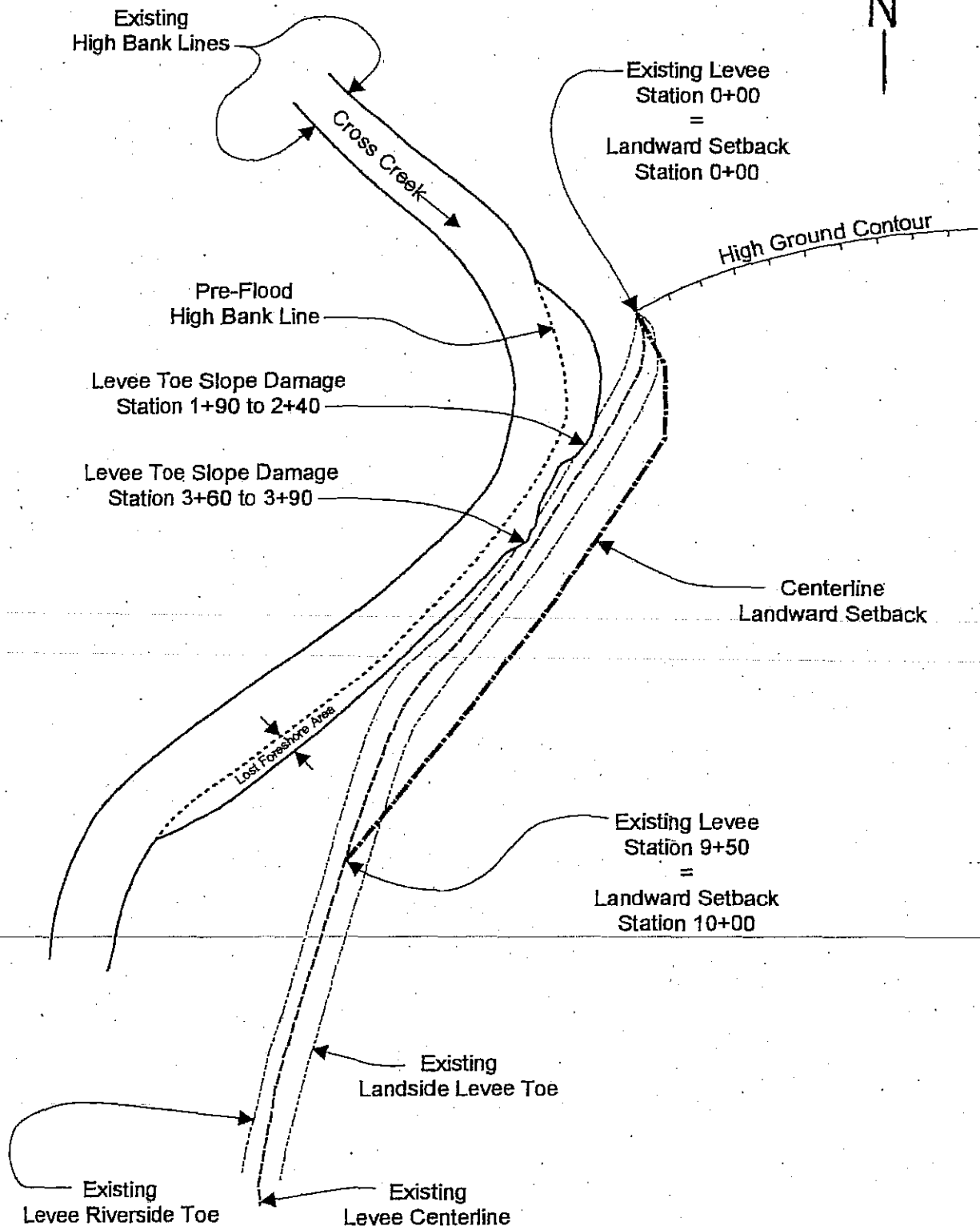
LOCATION: LDB and RDB of CROSS CREEK, SHAWNEE COUNTY, KANSAS

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DATED 5 JUNE 2007

Drawing Not to Scale

TRI-COUNTY KANSAS DRAINAGE DISTRICT NO. 1 – SECTION 3



APPLICATION NO. 2007-616

ACTION AGENCY: U.S. ARMY CORPS OF ENGINEERS

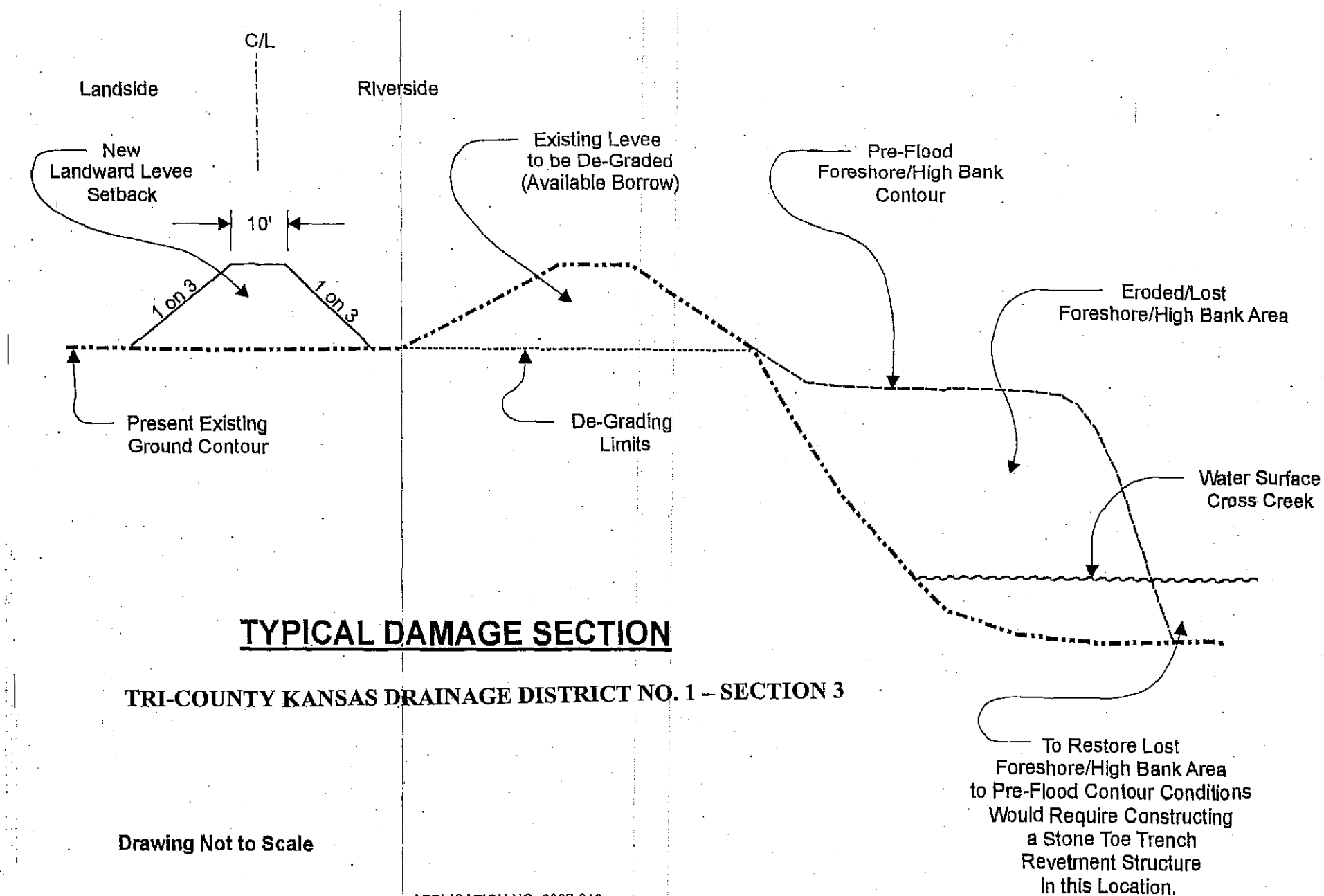
APPLICANT: TRI-COUNTY KANSAS DRAINAGE DISTRICT NO. 1

PROJECT: EARTHEN LEVEE REPAIR/P.L. 84-99

LOCATION: LDB and RDB of CROSS CREEK, SHAWNEE COUNTY, KANSAS

PAGE 6 of 7

DATED 5 JUNE 2007



Tri-County Kansas Drainage District No. 1
Mr. Laird French, President
330 NW Carlson Road
Topeka, KS 66615

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Last Update 23 May 2007							



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Kansas Ecological Services Office
2609 Anderson Avenue
Manhattan, Kansas 66502-2801

July 3, 2007

David Hoover, National Disaster Program Manager
Emergency Management Branch
700 Federal Building
601 East 12th Street
Kansas City, Missouri 64106

RE: CENWK-CO-RW (2007-616)

FWS Tracking # 2007-B-0614

Dear Mr. Hoover:

Thank you for the opportunity to provide comments on the proposed repairs of two sections, 2 and 3, of the Tri-County Kansas Drainage District No. 1 levee system.

Section 2 consists of approximately 34,560 linear feet of eastern flood control works (FCW). As a result of the October 2005 flood, severe foreshore erosion occurred riverward of levee station 218+20 to 322+20 and the FCW suffered intermittent damage along the riverside levee toe slope from stations 319+60 to 319+85 and 320+60 to 320+90. The recommended repair consists of repair of the lost foreshore area and intermittent riverside toe slope with an approximate 790-linear foot-long landward levee setback. The repair would require 8,100 cubic yards of earthen material obtained from the existing damaged levee section and nearby borrow areas.

Construction areas would be seeded and mulched. Levee Section 2 is located along the right descending bank of Cross Creek in Section 9, Township 11 south, Range 13 east, Shawnee County, Kansas.

Section 3 consists of approximately 33,040 linear feet of earthen FCW. The FCW protects approximately 4,009 acres. As a result of the October 2005 flood event, severe foreshore erosion occurred riverward of levee station 0+00 to 9+50 and the FCW suffered intermittent damage along the riverside levee toe slope (station 1+90 to 2+40 and 3+60 to 3+90, with an approximate 1,000-linear-foot-long landward levee setback. The repair would require 10,300 cubic yards of earthen material obtained from the existing damaged levee section and nearby borrow areas. Construction areas would be seeded and mulched. Levee Section 3 is located along the left descending bank of Cross Creek in Section 10, Township 11 south, Range 13 east, Shawnee County, Kansas.

Enc 2

The Corps is evaluating the In-place Repair Alternative and the "No Action" alternative but has made a preliminary determination that the Levee Setback Alternative, as described in the Public Notice, represents the most economically viable and environmentally sound alternative identified. We recommend the Levee Setback Alternative be implemented due to the habitat improvement benefits we believe will occur with this alternative.

We have reviewed the permit application pursuant to our authorities under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.); the Migratory Bird Treaty Act of 1918 (MBTA), as amended (16 U.S.C. 703 et seq.); the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.); and executive orders 11990 (wetland protection) and 11988 (floodplain management).

The bald eagle (*Haliaeetus leucocephalus*), federally listed as threatened, may be found along any river or larger stream in Kansas. The eagles use large live trees and snags for perches

The bald eagle (*Haliaeetus leucocephalus*), federally listed as threatened, utilize reservoirs during the winter. The eagles use large live trees and snags for perches. If any trees at least 50 feet tall and/or 24 inches dbh within 100 feet of the water's edge are to be removed, or if 10 or more trees greater than 12 inches dbh within 100 feet of the water's edge are to be removed, consultation with the Service may be required pursuant to section 7 of the Endangered Species Act (16 U.S.C. 1531 et seq.). In addition, if any project activity appears likely to harass or disturb any bald eagle observed at or near any construction site the Service should be notified prior to commencement of the activity, so that an assessment may be made of the potential for adverse impacts. An activity which harasses any listed species and disrupts its normal breeding, feeding or sheltering activities to the extent that harm or injury results is a prohibited taking under the ESA.

The Service is currently proposing to delist the bald eagle. However, if successful, delisting of the bald eagle would not be complete until August 2007 at the earliest. If the project is not complete by August 1, 2007, the Corps should contact us for alternative management guidelines for the continued protection of bald eagles under the Bald and Golden Eagle Protection Act (Eagle Act) and Migratory Bird Treaty Act (MBTA). Further information can be found in The Draft National Bald Eagle Management Guidelines at:

<http://www.fws.gov/migratorybirds/issues/BaldEagle/Mgmt.Guidelines.2006.pdf>.

We are pleased that the recommended repair plans include setting the levee back landward. Aerial photography and the GAP landcover database indicate that the setback areas are currently in cropland, therefore we are not concerned about impacts to wildlife habitat in these areas. Setting the levee back will allow the stream to reconnect to some of its floodplain and enhance the terrestrial, riparian, and aquatic habitats associated with the stream and should provide improved streambank stability and erosion control.

Since channelization, levee construction and floodplain development have already resulted in dramatic loss of riparian and wetland habitats in the Kansas River basin, the Corps should focus on bare or cropland areas for borrow. Riparian and wetland habitats should be avoided to the maximum extent practicable when selecting borrow sites for the proposed levee improvements

due to habitat impacts. Borrow taken from such areas will contain tree roots and other vegetative debris. All losses of native vegetation should be mitigated. If possible, establish mitigation areas prior to the onset of impacts from the project to lessen the impacts to wildlife from habitat loss. A mitigation plan should be developed in coordination with the U.S. Fish and Wildlife Service (Service), Environmental Protection Agency (EPA), and the Kansas Department of Wildlife and Parks (KDWP). We encourage the Corps to investigate the potential use of borrow sites for wetland and aquatic habitat enhancement and public recreation with the project sponsors and borrow site owners.

All disturbed areas should be immediately planted with native vegetation following construction to prevent erosion and the establishment of invasive species. Planted or seeded vegetation should be endemic to an area within 100 miles of the project site to protect local genotypes.

We recommend that the levee and levee easements be seeded with native, warm-season short grasses such as buffalo grass (*Buchloe dactyloides*). Buffalo grass is a drought tolerant, perennial, native, turf grass that reaches a height of 8 – 10 inches. Native grasses are superior to turf grasses for erosion control because of their deep roots, and provide higher quality wildlife habitat. The use of buffalo grass or other native short grasses will also reduce maintenance costs as they will rarely need to be mowed or irrigated.

Invasive species have been identified as a major factor in the decline of native flora and fauna and impact aquatic resources. Invasive species of particular concern in Kansas include the zebra mussel (*Dreissena polymorpha*), Eurasian watermilfoil (*Myriophyllum spicatum*), purple loosestrife (*Lythrum salicaria*), Johnson grass (*Sorghum halepense*), sericea lespedeza (*Lespedeza cuneata*), salt cedar (*Tamarix spp.*), and reed canary grass (*Phalaris arundinacea*). Additional information on aquatic invasive species in Kansas can be found on KDWP's website http://www.kdwp.state.ks.us/news/fishing/aquatic_nuisance_species Executive order 13112 Section 2 (3) directs Federal agencies to not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species in the United States or elsewhere and to ensure that all feasible and prudent measures to minimize risk of harm will be taken in conjunction with the actions. Proactive measure to prevent the inadvertent spread of exotic and invasive species would appear to satisfy this directive. Therefore we recommend the implementation of the following BMP as a permit condition.

All equipment brought on site will be thoroughly washed to remove dirt, seeds, and plant parts. Any equipment that has been in any body of water within the past 30 days will be thoroughly cleaned with hot water greater 140° F (typically the temperature found at commercial car washes) and dried for a minimum of five days before being used at this project site. In addition, before transporting equipment from the project site all visible mud, plants and fish/animals will be removed, all water will be eliminated, and the equipment will be thoroughly cleaned. Anything that came in contact with water will be cleaned and dried following the above procedure.

The Migratory Bird Treaty Act prohibits the taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests, except when specifically authorized by the Department of the Interior. Takings could result from projects in prairies, wetlands,

stream and woodland habitats, and those that occur on bridges and other structures if swallow or phoebe nests are present. While the provisions of MBTA are applicable year-round, most migratory bird nesting activity in Kansas occurs during the period of April 1 to July 15. However, some migratory birds are known to nest earlier than this (e.g., hawks and owls) and some later (e.g., goldfinches). If the proposed project appears likely to result in the take of migratory birds, I recommend a field survey during the nesting season of the affected habitats and structures to determine the presence of active nests. Our office should be contacted immediately for further guidance if a field survey identifies the existence of one or more active bird nests that you believe cannot be avoided temporally or spatially by the planned activities.

While the MBTA has no provision for allowing unauthorized take, the USFWS realizes that some birds may be killed during project construction and implementation even if all reasonable measures to protect them are used. The USFWS Office of Law Enforcement carries out its mission to protect migratory birds through investigations and enforcement, as well as by fostering relationships with individuals, companies, and industries that have taken effective steps to minimize their impacts on migratory birds, and by encouraging others to enact such programs. It is not possible to absolve individuals, companies, or agencies from liability even if they implement avian mortality avoidance or similar conservation measures. However, the Office of Law Enforcement focuses its resources on investigating and prosecuting individuals and companies that take migratory birds without regard for their actions or without following recommendations to avoid take.

Thank you for the opportunity to comment on this project. If you have any questions, please contact me or Susan Blackford, of my staff, at (785) 539-3474.

Sincerely,



Michael J. LeValley
Field Supervisor

cc: EPA, Kansas City, KS (Wetland Protection Section)
KDWP, Pratt, KS (Environmental Services)
KDHE, Topeka, KS (Bureau of Water)

MJL/shb

Hoover, David R NWK

From: Davis, Nate [nated@wp.state.ks.us]
Sent: Friday, June 29, 2007 4:14 PM
To: Hoover, David R NWK
Cc: susan_blackford@fws.gov; Kathy Mulder (E-mail); dcarlson@kdhe.state.ks.us
Subject: Corps PN 2007-616; Tri-County KS Drainage District No. 1; Levee setback

KDWP Track: 19940676 CO: SN Ref: D1.0502
Relocation (setback) of levee due to flood damage to along Cross Creek

Mr. Hoover,

No state-listed species or crucial wildlife habitats should be affected. We recommend the levee reconstructed areas be seeded with a native warm-season grass mixture. Consultation with the local USDA-NRCS office, K-State Extension or by calling our office at 620.672.5911 can provide a mix of grass/forbs that will provide erosion protection as well as enhance wildlife habitat in the area.

Thank you,

Nate Davis
Ecologist; KDWP, Environmental Services Section; 512 SE 25th Ave, Pratt, KS 67124
620.672.0795 (O) 620.450.8311 (C); nated@wp.state.ks.us
http://www.kdwp.state.ks.us/news/other_services/threatened_and_endangered_species

SR&C No. 07-06-159

KANSAS

Kansas State Historical Society
Cultural Resources Division

KATHLEEN SEBELIUS, GOVERNOR

June 14, 2007

Mr. David Hoover
National Disaster Program Manager
Emergency Management Branch
700 Federal Building
601 E 12th Street
Kansas City MO 64106

RE: Flood Control Levee Repair, Public Notice No. 2007-616
Shawnee County

Dear Mr. Hoover:

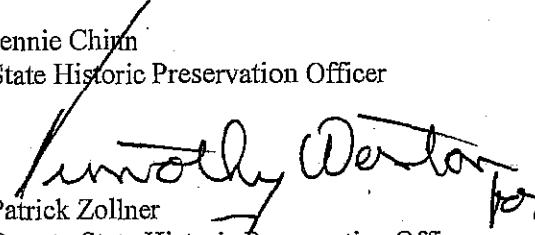
The Kansas State Historic Preservation Office has reviewed its cultural resources files for the area of the above referenced project in accordance with 36 CFR 800. The project as proposed should have no effect on properties listed on the National Register of Historic Places or otherwise identified in our files. This office has no objection to implementation of the project.

Any changes to the project area that include additional ground disturbing activities will need to be reviewed by this office prior to beginning construction. If construction work uncovers buried archeological materials, work should cease in the area of the discovery and this office should be notified immediately.

This information is provided at your request to assist you in identifying historic properties, as specified in 36 CFR 800 for Section 106 consultation procedures. If you have questions or need additional information regarding these comments, please contact Tim Weston 785-272-8681 (ex. 214). Please refer to the Kansas Review & Compliance number (KSR&C#) above on all future correspondence relating to this project.

Sincerely,

Jennie Chinn
State Historic Preservation Officer


Patrick Zollner
Deputy State Historic Preservation Officer

END